

Nataniel Y. Tsai

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June 12, 2023

The Honorable Jamar K. Walker
United States District Court
Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker:

I am writing to be considered for a one-year clerkship position for the 2024-2025 term. I am a rising 3L student at the University of Pennsylvania Carey Law School.

I am interested in clerking in the district court to understand further how facts are interpreted by the Court and used to come to the correct legal conclusion. I like to think of myself as a pragmatic problem-solver who excels in a fast-paced environment, and the Eastern District of Virginia would be an excellent place for me. Further, I am interested in becoming an Assistant United States Attorney particularly focused on white-collar crime and your Honor's experience as an Assistant United States Attorney would provide invaluable experience to my young career.

My time on the Penn Law Review has refined my attention to detail and taught me to think critically while editing complicated topics. My pursuit of a Master of Bioethics, as well as my experiences growing up in a multiethnic household, have helped to frame how I think about the law by providing me with different perspectives to work through complex problems and approach issues with humility and an understanding that the parties involved might have different values and priorities than me.

Enclosed are my resume, transcript, and writing sample. My letters of recommendation from Professor Paul Kaufman (paul.kaufman2@usdoj.gov, 856-757-5230), Professor Kimberly Ferzan (kferzan@law.upenn.edu, 215-573-6492), and Holly Burch, Esq. (Holly.Burch@dea.gov, 571-776-3232) are also included. Please let me know if there is any additional information I can provide.

Sincerely,

Nataniel Y. Tsai
Encls.

Nataniel Y. Tsai

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EDUCATION

University of Pennsylvania Carey Law School, Philadelphia, PA

Juris Doctor, Expected May 2024

- Development Editor of *University of Pennsylvania Law Review* 2023-2024
- Associate Editor of *University of Pennsylvania Law Review* 2022-2023
- Comment: Medicare Part D Negotiations: Meaningful Change or A Step in the Right Direction?
- Equity and Inclusion Fellow for the Penn Law Office of Diversity and Inclusion
- LALSA (Latinx Affinity Group) – Vice-President 2022-2023, 1L Representative

University of Pennsylvania Perelman School of Medicine, Philadelphia, PA

Master of Bioethics, Expected May 2024

University of Arizona, Tucson, AZ

Bachelor of Science in Public Health with Honors, summa cum laude, Outstanding Senior, August 2017 – May 2021

Bachelor of Arts in Political Science, summa cum laude

- Senior Thesis: Legal Challenges to State Regulation of Pharmacy Benefit Managers

WORK EXPERIENCE

Arnold & Porter, Washington DC

Summer Associate, Summer 2023

- Performed research and wrote a memo in support of a pro bono FOIA litigation matter
- Conducted research into the legislative history regarding an ambiguous term pertaining to Medicaid

Department of Justice, Arlington, VA

Intern for Chief Counsel for the Drug Enforcement Administration, May 2022-August 2022

- Prepared charging and prosecution documents related to the revocation of a healthcare provider's license to prescribe controlled substances
- Directed and cross-examined special agents in training during moot court exercise at Quantico
- Drafted a brief in support of the administration relating to an employment discrimination case

Philadelphia Legal Aid, Philadelphia, PA

Intern with Medical Legal Community Partnership Unit, January 2022-May 2023

- Researched legal questions regarding public benefits
- Advised clients as to how their immigration status would affect their access to healthcare

University of Arizona Campus Health, Tucson, AZ

Health Promotion Intern/Student Worker, August 2020-May 2021

- Educated students about various health topics, transcribed patient data and observed patients' reactions to the COVID-19 vaccine

Arizona Third Congressional District, Tucson, AZ

Office Intern, January 2020-March 2020

- Answered constituent's questions regarding issues with federal agencies, particularly regarding immigration

University of Arizona Honors Alternative Spring Break, Nogales, AZ and Sonora, Mexico

Trip Leader, May 2019-May 2020

- Co-designed and co-led a week-long trip centered on immigration and border issues
- Collaborated with non-profit groups to create volunteer opportunities; fundraised; responsible for ten participants for trip duration

LANGUAGE & INTERESTS

Language: Spanish (professional working proficiency)

Interests: Cooking (primarily Chinese, Mexican, and Thai food.), sports (Liverpool F.C., Arizona Cardinals, Dallas Cowboys, University of Arizona teams), and traveling (in particular around the United States, Latin America, and Asia)

Nataniel Tsai
UNIVERSITY OF PENNSYLVANIA CAREY LAW SCHOOL

Spring 2023

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Criminal Procedure: Trial and Adjudication	The Hon. Stephanos Bibas	A-	3	
Health Insurance Reform and Regulation	Allison Hoffman	A-	3	
Federal Indian Law	Catherine Struve	A-	3	
Law Review	Elizabeth Pollman	Ungraded	1	

Fall 2022

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Antitrust	Herbert Hovenkamp	A	3	
Evidence	Kimberly Ferzan	A-	4	
Healthcare Fraud: Investigation and Prosecution	Paul Kaufman	A-	3	
Women, Law, and Leadership	Rangita de Silva de Alwis	A	3	

Spring 2022

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Administrative Law	Sophia Lee	A-	3	
Criminal Law	Sean Ossei-Owusu	B	4	
Constitutional Law	Kermit Roosevelt	B+	4	
Plagues Pandemics and Public Health Law	Eric Feldman	B+	3	
Legal Practice Skills	Jessica Simon	Passed	3	

Fall 2021

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Civil Procedure	Yanbai Andrea Wang	A-	4	
Contracts	David Hoffman	B	4	
Torts	Karen Tani	B+	4	
Legal Practice Skills Cohort	Eric Makarov	Passed	1	
Legal Practice Skills	Jessica Simon	Passed	3	



U. S. Department of Justice
Drug Enforcement Administration
Office of Chief Counsel

www.dea.gov

March 21, 2023

Dear Judge:

It is with great pleasure that I recommend Nataniel Tsai for an attorney position with your court. Nataniel joined the Drug Enforcement Administration (DEA) for his 1L summer internship during which I was his direct supervisor. DEA could not have made a better choice than to have Nataniel as one of three interns for its 2022 internship class.

Naturally soft-spoken, Nataniel balanced the class with grace, humility, and an unexpected humor. His goals while with the DEA were to improve his legal research & writing and confidence; without question, he grew by leaps and bounds in these areas during his time at the DEA. From working on an Order to Show Cause to remove a doctor's license, to drafting agency-wide guidance on the Hatch Act, to drafting the Agency's Brief in an EEO appeal, he was always willing – and seeking – to try new work, and was happy to do any work that needed to be done. As part of a small, three-person intern team, he was integral to the success of the team, balancing his individual projects with the team's projects, whether team lead or member. He flew through assignments, working on both quick turn-around and long-term projects, always making sure to seek out guidance and feedback, as appropriate. Not only did he reach out to the attorneys he worked with for constructive criticism on his projects, but he also sought assistance on citations and memo drafting from our litigation experts. Nataniel showed a strong work ethic and dedication to his internship, often taking on numerous projects at the same time, completing them in an appropriate timeframe, and asking pertinent questions when necessary.

Nataniel demonstrated excellent professionalism, drive, and accountability during his time at the DEA. I have stayed in touch with Nataniel since his summer with DEA and continue to believe that not only is going to be a wonderful lawyer one day soon, he is already an amazing person. Any legal office would be exceedingly lucky to have Nataniel join them. I hope that office is yours.

It is with great confidence and excitement that I recommend Nataniel to your office. Nataniel's intelligence, legal skills, professionalism, and pure drive to succeed will not disappoint should you give him the opportunity. Thank you for the opportunity to recommend Nataniel. Please feel free to contact me at holly.burch@dea.gov or 202-251-3712 should you wish to discuss anything further.

Sincerely,
/s/

Holly M. Burch
Senior Attorney, Foreign Section / Intern & Honors Program Director
Office of Chief Counsel
Drug Enforcement Administration

U.S. Department of Justice
United States Attorney
Eastern District of Pennsylvania

June 11, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Re: Clerkship Applicant Nataniel Tsai

Dear Judge Walker:

I write in recommendation of Nataniel Tsai for a clerkship with your court. I got to know Nathaniel through my class, Health Care Fraud: Investigation and Prosecution, at the University of Pennsylvania Carey Law School.

My class is a bit unusual, but I believe it gives me a valuable perspective on how Nathaniel thinks and reasons. The class covers a variety of detailed topics, including the civil False Claims Act, Stark Law, and Anti-Kickback Statute, federal crimes ranging from Wire Fraud and False Statements to Misbranding, and investigative techniques from consensual interviews to Title III wiretaps. It is an intense, practically-oriented instruction, and it requires a precise delineation of complex and ambiguous legal subjects (materiality in the False Claims Act arena after the Escobar, scienter for violations of the Anti-Kickback Statute, and so forth) applied to factual contexts from solo physician offices to pharmaceutical corporations. The examination is a highly-compressed, three-hour sprint that forces students into the role of AUSAs and defense counsel analyzing ambiguous, challenging fact patterns on both the practical and legal levels.

That Nathaniel scored as he did on that exam is a testament to him and to his ability to reason through complex legal scenarios. The statutes I teach are among the trickiest in law, and their intersection makes the questions I ask exponentially more so. I was impressed with Nathaniel's performance and the mind and work that led to it. In addition, Nathaniel was required to present on a topic of his choice, and so I was able to observe him with his peers and even able to borrow a small component of his presentation on opiate fraud for my exam.

Since my class ended, I have also gotten to know Nathaniel better as a person. He is a delightful, laid-back law student whose chill demeanor belies an intense desire to improve himself as an attorney, one who is willing to take on serious intellectual challenges if it means reaching a better level of understanding. Despite his intellect, Nathaniel is humble, plain-spoken, honest, and grounded. He would make a fine addition to any Chambers, and you could rest assured knowing that he would be a part of the team, bereft of the arrogance, pig-headedness, or plain cussedness that can taint the Chambers dynamic or affect the courthouse family. People like Nathaniel, and with good reason.

If you have any additional questions or would like to discuss this matter further, please do not hesitate to contact me or to have someone from your Chambers do so. I am always happy to see good people find one another, and I know that Nathaniel will make a real contribution wherever he lands, bringing a great deal to the table without taking anything off of it.

Respectfully,

PAUL W. KAUFMAN
Assistant United States Attorney
Adjunct Professor
University of Pennsylvania Law School
Email: paul.kaufman2@usdoj.gov
Tel: 215-861-8618

Paul Kaufman - Paul.Kaufman2@usdoj.gov - 2153708774

UNIVERSITY OF PENNSYLVANIA CAREY LAW SCHOOL

June 10, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Re: Clerkship Applicant Nataniel Tsai

Dear Judge Walker:

I am delighted to recommend Nataniel Tsai for a clerkship. Nataniel was a student in my Evidence class, wherein he received an A-. Nataniel is a bright and tenacious student who will be an exemplary law clerk.

Academically, Nataniel is a terrific student. I teach my Evidence course with two case files, where students represent two clients for the entire semester, and they complete problems based on those case files. Not only was Nataniel consistently engaged and prepared in class but he would also drop in on office hours when he had a question. He was not a constant attendee, but rather, would triage his questions so as to focus on particularly complex issues. In general, it was clear that Nataniel tried to figure things out and would come to office hours when he had really put in the work to master the material.

His exam was very strong. My Evidence class was very gifted, with a significant number of Law Review students. In a crowded field, Nataniel still performed above the mean, demonstrating significant mastery of the material as well as the ability to write clearly under significant time pressure.

Interpersonally, Nataniel is quiet, unassuming, and thoughtful. But he is also tenacious. Not only does he love to be challenged in classes but he enjoys throwing himself into material so that he can learn and master topics. He enjoyed law review specifically because it pushed him to become a stronger writer. Ultimately, I would expect him to work well independently, to be willing to take on the most challenging of research questions, and to respond well to feedback and criticism. He will be an ideal law clerk.

I recommend Nataniel wholeheartedly. Please do not hesitate to contact me if you have any questions about his candidacy.

Sincerely,

Kimberly Kessler Ferzan
Earle Hepburn Professor of Law
kferzan@law.upenn.edu
215-573-6492

Kimberly Ferzan - kferzan@law.upenn.edu - 215-573-6492

Writing Sample

I drafted the attached writing sample as an assignment for my 1L summer internship at the Drug Enforcement Administration's Office of Chief Counsel. The assignment required drafting a brief in response to a complaint of discrimination and a hostile work environment filed by a current employee of the administration. I conducted all the research necessary for the assignment. I received broad feedback from my supervising attorney for the brief and then submitted my draft to my supervising attorney. I have received permission to use my draft of the brief as a writing sample for clerkship applications in its current redacted form.

Id. Complainant did not request a hearing before an Administrative Judge. Accordingly, the case was presented to the Complaint Adjudication Office (“CAO”) for a FAD. In its decision issued on April 7, 2022, the CAO found that “the record fails to demonstrate that complainant was subjected to disparate treatment or a hostile work environment based on her race or sex.” *Id.* at 11.

Complainant noticed this appeal on May 5, 2022, and submitted her brief on June 6, 2022.

FACTUAL BACKGROUND

Complainant is a Special Agent (“SA”) in the DEA’s [REDACTED] Field Division Office. Report of Investigation (“ROI”) at 61-62. Her first line supervisor was Group Supervisor (“GS”) [REDACTED]. *Id.* at 62. GS [REDACTED] was Complainant’s first-line supervisor from August 2019 until May 2020. *Id.* at 104. On or about October 27, 2020, Complainant received a performance evaluation rating of “Successful” for October 1, 2019, to May 23, 2020, with GS [REDACTED] as the rating official. *Id.* at 4, 105, 228. Acting GS [REDACTED] was Complainant’s rating official from May 24, 2020, until June 20, 2020, following her transfer; however, since he did not supervise her for at least the required 90 days, he did not provide her with a rating. *Id.* at 227. From the period of June 21, 2020, until September 30, 2020, Complainant was rated by GS [REDACTED] who gave Complainant a rating of “Excellent.” *Id.* at 145, 220. Complainant’s overall rating for October 1, 2019, through September 30, 2020, was determined by using a formula that combined her interim rating from GS [REDACTED] with the rating GS [REDACTED] provided, which equated to an overall “Successful” rating. *Id.* at 145, 226. Complainant did not agree with the rating, as she believed that she deserved a higher rating. *Id.* at 65. Complainant then

discussed her rating with Assistant Special Agent in Charge (“ASAC”) [REDACTED] who concurred with both GS [REDACTED] rating and the overall final rating. *Id.* at 129-130.

Complainant also claims that GS [REDACTED] required that Complainant send her operational plans to the rest of the team while not requiring the same for Complainant’s white coworkers. *Id.* at 69-70. However, Complainant also admitted that written operational plans are required when an SA is conducting an operation. *Id.* at 69.

Complainant also alleges that GS [REDACTED] fostered a hostile work environment by following her throughout the building and that she would see GS [REDACTED] on the second floor when he had no reason to be there. *Id.* at 72-73. GS [REDACTED] denied the allegations, stating that he has meetings throughout the different floors of the building, and Complainant would not know his schedule and where he needed to be. *Id.* at 113. Complainant asserts that GS [REDACTED] inquired about her personal life when he asked her about her relationship to her fiancé at the time and that, at times, GS [REDACTED] would refer to Complainant and other female members of the group as “girls.” *Id.* at 72, 73, 77. GS [REDACTED] stated that, at times, he did ask about Complainant’s personal life, as he was concerned about her because she was not acting herself at work, and when he tried to refer her to the Employee Assistance Program, advised her that she could talk to the Division Pastor, and that any group member and himself were available if she needed anything, Complainant declined any assistance. *Id.* at 114. GS [REDACTED] does not recall referring to Complainant or other female members of the group as “girl.” *Id.* at 115. On May 24, 2020, Complainant and GS [REDACTED] were reassigned to different units as part of a larger reorganization effort by Special Agent in Charge (“SAC”) [REDACTED] due to the needs of the division, which included 28 staff transfers. *Id.* at 163.

ARGUMENT

As this is an appeal from a decision issued without a hearing pursuant to 29 C.F.R. § 1614.110(b), the Agency’s decision is subject to *de novo* review. 29 C.F.R. § 1614.405(a); *see* Equal Employment Opportunity Management Directive 110, Chapter 9, § VI.A. (Aug. 5, 2015) (explaining that the *de novo* standard of review “requires that the Commission examine the record without regard to the factual and legal determinations of the previous decision maker,” and that it “review the documents, statements, and testimony of record, including any timely and relevant submissions of the parties, and... issue its decision based on [its] own assessment of the record and its interpretation of the law.”).

The Agency maintains that application of the *de novo* standard of review will yield the same conclusion – Complainant was not subject to discrimination or a hostile work environment. Though Complainant continues to make a number of different claims, they almost all contain no citations to the record. *See generally* Complainant’s Brief in Support of Appeal (hereinafter, “Complainant’s Brief”). Complainant also requests that, as one of her proposed remedies, the Agency grant Complainant’s transfer to [REDACTED]. *Id.* at 14. However, since the request to transfer was not an issue in the initial complaint or anywhere discussed in the ROI, it is not a remedy that can be granted through this adjudication. ROI at 9, 15, 76, 77.

The CAO’s legal analysis is sound, and the FAD should be affirmed in its entirety.

I. October 2020 Performance Appraisal

As set forth in the FAD, Complainant does not establish a *prima facie* case of discrimination and/or hostile work environment. In order to establish a *prima facie* case of disparate treatment, the Complainant must demonstrate that she suffered a materially adverse employment action because of her race or her sex under circumstances that raise an inference of

discrimination. *Stella v. Mineta*, 284 F.3d 135, 145 (D.C. Cir. 2002); *see also Texas Dep't of Comm. Aff. v. Burdine*, 450 U.S. 248, 252-56 (1981); *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-04 (1973). Complainant fails to demonstrate that GS [REDACTED] treated other similarly-situated employees who are not a part of Complainant's protected classes differently. Specifically, in this case, SA [REDACTED], a white male, also received a "Successful" rating for the same time period as Complainant from GS [REDACTED]. ROI at 65, 132. Because of this, Complainant cannot show an inference of discrimination, since Complainant was not treated differently than those outside of her protected class. *See generally Young v. Henderson*, EEOC Doc. 03A00083, *1 (May 5, 2000) (stating that a *prima facie* case of disparate treatment discrimination requires the complainant to show that she was treated differently than similarly situated persons who are not members of her protected class). Even though Complainant states that she deserved a higher rating than SA [REDACTED], there is no evidence in the record to support Complainant's subjective and conclusory statement. *Id.* at 66-68. The fact that Complainant's coworkers perceive her to be a lead performer is irrelevant because Complainant's coworkers are not Complainant's supervisor and, as such, are not in charge of rating her performance; that responsibility is given to Complainant's first- and second-line supervisors. *Id.* at 220-33; Complainant's Brief at 6. Further, even if Complainant could show that her performance was superior to SA [REDACTED], she would still need to establish that the rating was related to her protected classes, which she has not done.

Even assuming that the record establishes a *prima facie* case of discrimination, Complainant's claim ultimately fails because DEA management articulated legitimate, non-discriminatory reasons for issuing Complainant a "Successful" rating on her FY 2020 performance appraisal. *See St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 506-07 (1993) (noting

that the “ultimate burden” of persuasion remains “at all times” with the complainant). GS [REDACTED] stated that he did not take into consideration Complainant’s sex and/or race when he formulated Complainant’s rating. ROI at 109. GS [REDACTED] stated that he rated her performance “fairly and accurately” based on the performance standards in her performance work plan. *Id.* at 107-08. Also, GS [REDACTED] only issued Complainant her interim rating, not her overall rating, as her overall rating was determined through a formula combining GS [REDACTED] and GS [REDACTED] rating of Complainant. *Id.* at 107, 226.

ASAC [REDACTED], Complainant’s second-line supervisor at the relevant time, explained that Complainant’s sex and race had no bearing on the rating. *Id.* at 131. ASAC [REDACTED] noted that several of the accomplishments Complainant used to support her argument that she deserved a higher rating involved participation in other agents’ operations, rather than operations she generated herself. *Id.* at 129, 130. ASAC [REDACTED] noted that many of Complainant’s cases were spot checks, which do not justify GS-13 investigative work, and many of those cases demonstrated poor effort on the part of Complainant. *Id.* at 129. Nothing in the record supports a finding that these proffered reasons are pretext for discrimination. Even in Complainant’s own brief she states “it is difficult to demonstrate with particularity why the Complainant’s performance rating was inaccurate.” Complainant’s Brief at 7.

II. Application of Different Standards for Operations

The CAO was also correct in concluding that there is no evidence in the record to suggest that GS [REDACTED] had a different standard for Complainant than he did for other similarly-situated agents in his unit.¹ FAD at 9. GS [REDACTED] asserted that he did not require Complainant to notify

¹ The Agency notes that this allegation is untimely. GS [REDACTED] stopped being Complainant’s supervisor in May 2020, and Complainant first contacted the EEO office on approximately November 19, 2020. ROI at 4, 104. This is well outside of the 45-day requirement to bring a discrimination claim. 29 C.F.R. § 1614.105(a)(1).

the team by email of every operation that she conducted. ROI at 111. Complainant cannot point to a single specific instance when GS [REDACTED] required her to notify the unit of an operation that she was undertaking, and there is no evidence in the record to suggest that GS Heigle ever did. *Id.* at 110, 111.

GS [REDACTED] stated that he did not have a higher standard for Complainant and provided an email that asked for operational plans from both Complainant and SA [REDACTED]. *Id.* at 120. No other DEA agent in the unit observed Complainant being held to a higher standard by GS [REDACTED]. *Id.* at 51-53. Complainant's only "evidence" of the unequal treatment she allegedly received is her own observations that there were instances when white agents would return from an operation and not inform anyone. *Id.* at 107. Complainant's alleged observations do not account for the fact that some operations are very time sensitive, and verbal operational plans may be used instead of written operational plans. *Id.* at 160. Complainant's own brief states that it would be difficult to draw a conclusion that she was held to a higher standard from the evidence contained within the record. Complainant's Brief at 4.

Even if it is assumed to be true that GS [REDACTED] did hold Complainant to a different standard regarding the submission of operational plans, the action is not an adverse employment action, thus negating one of the elements for a *prima facie* claim of race or sex discrimination. *See Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 761-62 (1998) (holding that for an adverse employment action there must be a tangible employment action that constitutes a significant change in employment status, "such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits"). Submitting an operational plan, something that Complainant admits is required for all enforcement operations, ROI at 69, does not rise anywhere near the level of a significant change

in employment status, and thus is not an adverse employment action.

III. Hostile Work Environment Claim

The CAO also correctly concluded that Complainant was not subject to a hostile work environment based on her race or sex.² *See Harris v. Forklift Sys.*, 510 U.S. 17, 21-23 (1993) (noting that to establish a case of discrimination on the basis of a hostile work environment, a complainant must first show that the agency acted with discriminatory animus against a protected group to which the complainant belongs). In order for Complainant to succeed on a hostile work environment claim, the alleged discrimination based on her race or sex must be severe or pervasive enough that a reasonable person would find the workplace to be hostile or abusive. *See generally Harris v. Forklift Sys.*, 510 U.S. 17 (1993); *see also* FAD at 7-8.

In response to Complainant's claim that GS [REDACTED] followed her throughout the building, GS [REDACTED] explained that he often went to the second floor to speak to other personnel on the floor. ROI at 113. There is no evidence in the record, other than Complainant's own suspicions, which suggest that GS [REDACTED] singled out Complainant with his movements throughout the office. The CAO in the FAD stated that there is nothing in the record to support that GS [REDACTED] movements were anything more than normal office conduct. FAD at 10. GS [REDACTED] attending meetings and traveling within the building to perform work related tasks certainly are not actions that a reasonable person would find hostile or abusive.

Complainant also stated that she felt as if GS [REDACTED] fostered a hostile work environment by asking questions relating to her personal life, yet there is no evidence in the record to suggest

² The Agency notes that Complainant's hostile work environment claim is likely untimely. Complainant first contacted the EEO office on approximately November 19, 2020. ROI at 4. However, she dates her allegation about GS [REDACTED] asking about her personal life to December 2019, and the remainder of her hostile work environment claims appear to be from when GS [REDACTED] was her supervisor. ROI at 72-77. Since GS [REDACTED] stopped being her supervisor in May 2020, the last incident constituting her allegation of harassment is well outside of the 45-day time limit to bring a hostile work environment claim. 29 C.F.R. § 1614.105(a).

that GS [REDACTED] asked these questions with the intention of harassing or interfering with Complainant's work or that they were related to Complainant's race or sex. ROI at 113, 114. These questions, which occurred a total of three times within a two-month span, are not enough to succeed on a claim of hostile work environment. FAD at 9-10; *see also* ROI at 73, 113, 114. In order for Complainant to prove a hostile work environment claim, "[s]imple teasing, offhand comments, and isolated incidents (unless extremely serious) do not amount to discriminatory changes in the terms or conditions of employment." *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998). Three instances within two-months are nothing more than isolated incidents, and fail to rise to the level of extremely serious. GS [REDACTED] stated that he was concerned for Complainant, as she had been acting out of character while at the office. *Id.* at 113-14. A reasonable person would not think that her supervisor asking how her relationship is going because she seemed sad, or about her personal life in general, since she did not seem herself, would be abusive or pervasive enough to file a hostile work environment claim. ROI at 113-14, 189.

Complainant also alleges that GS [REDACTED] called Complainant and other females "girl" and often micromanaged their work. ROI at 57-58. Yet again, simple teasing, offhand comments, and isolated incidents are not sufficient for Complainant to succeed on a hostile work environment claim as EEO regulations are not a "general civility code." *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 80-81 (1998); *Faragher*, 524 U.S. at 788. Further, GS [REDACTED] stated that he does not recall referring to Complainant or other female members of his team as "girl." ROI at 115. No other witnesses in the ROI stated that they heard GS [REDACTED] refer to Complainant or other female members of the team as "girls." *See generally* ROI. Complainant in her brief states that the use of "girl" is a "Jim-Crow era microaggression." Complainant's Brief at 10. However, even if GS [REDACTED] had used the term toward Complainant, he stated that

there would not have been any racial animus. ROI at 115. This is evident by the fact that it is a common term that is used in his home state of [REDACTED] to refer to a young lady or female.

Id. He was raised to use the term to mean younger lady, his mother still uses that term, and he uses it with his family as well to refer to his two adult daughters. *Id.* As such, even if the events occurred in the manner that Complainant has described them, there is no evidence that any of the actions performed or statements made by GS [REDACTED] were motivated by Complainant's race and/or sex and accordingly, Complainant cannot prove a *prima facie* case of hostile work environment. As such Complainant's allegations of hostile work environment must fail.

CONCLUSION

For the foregoing reasons, the Agency respectfully requests that the FAD issued on April 7, 2022, be affirmed in its entirety.

Applicant Details

First Name	Caroline
Last Name	Uehling
Citizenship Status	U. S. Citizen
Email Address	carolineuehling@law.gwu.edu
Address	<div> <div>Address</div> <div> <div>Street</div> <div>16 Snows Ct NW</div> <div>City</div> <div>Washington</div> <div>State/Territory</div> <div>District of Columbia</div> <div>Zip</div> <div>20037</div> <div>Country</div> <div>United States</div> </div> </div>
Contact Phone Number	2678863167

Applicant Education

BA/BS From	George Washington University
Date of BA/BS	May 2021
JD/LLB From	The George Washington University Law School
	https://www.law.gwu.edu/
Date of JD/LLB	May 19, 2024
Class Rank	25%
Law Review/Journal	Yes
Journal(s)	The George Washington University Law Review
Moot Court Experience	No

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	No
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Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Recommenders

Colin, Ross
Colin.Ross@usdoj.gov

Pont, Erika
epont@law.gwu.edu

Young, Kathryne
k.young@law.gwu.edu

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Caroline Uehling

16 Snows Ct NW • Washington, DC 20037 • (267) 886-3167 • carolineuehling@law.gwu.edu

June 12, 2023

The Honorable Jamar K. Walker
United States District Court for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, Virginia 23510

Dear Judge Walker,

I am a law student at The George Washington University Law School and will graduate in May 2024. I write to apply for a judicial clerkship for the 2024 Term.

Enclosed, please find a resume, a transcript, and a writing sample. In reviewing my transcript, please note that my grade for Criminal Law is “Credit” instead of a letter grade because I took a make-up exam due to an illness during the exam period, per GW Law’s grading policies. Also included are letters of recommendation from Professor Kathryne Young, Professor Erika Pont, and Mr. Colin Ross.

If you have any questions, please feel free to contact me at the above address and phone number. Thank you for your consideration.

Respectfully,

Caroline Uehling

Caroline Uehling

16 Snows Ct NW • Washington, DC 20037 • (267) 886-3167 • carolineuehling@law.gwu.edu

EDUCATION

The George Washington University Law School Washington, DC
J.D. expected May 2024

GPA: 3.64 (Thurgood Marshall Scholar - Top 16-35% of class as of Spring 2023)

Activities: *The George Washington Law Review*, Articles Editor; Writing Fellow; Research Assistant to Professor Miriam Galston; International Refugee Assistance Project, Communications Director; Civil Procedure Tutor

The George Washington University Washington, DC
B.A., *summa cum laude*, Political Science and History May 2021

Activities: No Lost Generation, Symphonic Band, President of Democracy Matters

WORK EXPERIENCE

Military Commissions Defense Organization Arlington, VA
Legal Intern May 2023 – Present

- Assists legal defense team through discovery review, legal research, drafting motions and memoranda, and preparing for hearings.

Pro Se Staff Attorney's Office, United States District Court for the District of Maryland Baltimore, MD
Legal Intern June – July 2022

- Reviewed prisoner civil rights cases; drafted orders and memoranda opinions.

Gilbert Employment Law Silver Spring, MD
Legal Assistant July – August 2021

- Conducted intake interviews with prospective clients and took notes during initial consultations.

Legal Intern June – July 2018; June – August, September – December 2019

- Took notes during initial consultations, meetings with clients, and depositions.
- Drafted litigation plans and deposition digests.
- Organized client documents, prepared binders with exhibits for trial, prepared documents for service.

National Democratic Redistricting Committee Washington, DC
Branding, Creative, and Social Media Intern September – December 2020

- Researched election information for state-by-state infographics, created graphics for endorsed candidates.
- Edited websites for optimal functionality and aesthetics through Squarespace and WordPress.
- Responded to and organized emails to the official account from potential donors and collaborators.

The Office of Congresswoman Madeleine Dean Washington, DC
Intern September – December 2019

- Wrote policy memoranda regarding topics such as per- and polyfluoroalkyl substances (PFAS) contamination and the Endangered Species Act, attended legislative briefings, prepared for hearings.
- Listened to and orally addressed constituents' concerns and complaints; organized written constituent communications and drafted responses; drafted social media posts.

INTERESTS

Volunteer researcher with the Florida Rights Restoration Coalition. Dog walker through Rover.com. Enjoys Phillies baseball, GW Law Softball, playing trombone, hiking, baking, and gardening.

THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC

OFFICE OF THE REGISTRAR

Gwid : G40155276

Date of Birth: 21-NOV

Date Issued: 05-JUN-2023

Record of: Caroline Uehling

Page: 1

Student Level: Law
Admit Term: Fall 2021Issued To: CAROLINE UEHLING
CAROLINEUEHLING@GWU.EDU

REFNUM:5606526

Current College(s): Law School
Current Major(s): LawDegree Awarded: Bachelor of Arts 16-MAY-2021
summa cum laude
Departmental HonorsMajor: History
Major: Political Science

SUBJ NO COURSE TITLE CRDT GRD PTS

GEORGE WASHINGTON UNIVERSITY CREDIT:

Fall 2021

Law School
Law

LAW 6202 Contracts 4.00 B+

LAW 6206 Torts 4.00 B+

LAW 6212 Civil Procedure 4.00 A

LAW 6216 Fundamentals Of 3.00 A-

Lawyer I

Pont

Ehrs 15.00 GPA-Hrs 15.00 GPA 3.578

CUM 15.00 GPA-Hrs 15.00 GPA 3.578

THURGOOD MARSHALL SCHOLAR

TOP 16% - 35% OF THE CLASS TO DATE

Spring 2022

Law School
Law

LAW 6208 Property 4.00 A-

LAW 6209 Legislation And 3.00 A

Regulation

Schaffner

LAW 6210 Criminal Law 3.00 CR

LAW 6214 Constitutional Law I 3.00 A-

Morrison

LAW 6217 Fundamentals Of 3.00 B+

Lawyer II

Pont

Ehrs 16.00 GPA-Hrs 13.00 GPA 3.667

CUM 31.00 GPA-Hrs 28.00 GPA 3.619

Good Standing

THURGOOD MARSHALL SCHOLAR

TOP 16% - 35% OF THE CLASS TO DATE

***** CONTINUED ON NEXT COLUMN *****

SUBJ NO COURSE TITLE CRDT GRD PTS

Fall 2022

Law School
Law

LAW 6230 Evidence 3.00 A-

Young

LAW 6400 Administrative Law 3.00 B+

Glicksman

LAW 6520 International Law 3.00 A

Coffee

LAW 6666 Research And Writing 2.00 CR

Fellow

LAW 6886 Domestic Terrorism 2.00 A-

Blinkova

Brzozowski

Ehrs 13.00 GPA-Hrs 11.00 GPA 3.667

CUM 44.00 GPA-Hrs 39.00 GPA 3.632

Good Standing

THURGOOD MARSHALL SCHOLAR

TOP 16% - 35% OF THE CLASS TO DATE

Spring 2023

LAW 6218 Professional 2.00 A+

Responslbty/Ethic

LAW 6360 Criminal Procedure 4.00 B+

LAW 6546 International Law-Human 3.00 A-

Rights

LAW 6552 Law Of War 2.00 A-

LAW 6666 Research And Writing 2.00 CR

Fellow

Ehrs 13.00 GPA-Hrs 11.00 GPA 3.667

CUM 57.00 GPA-Hrs 50.00 GPA 3.640

Good Standing

THURGOOD MARSHALL SCHOLAR

TOP 16% - 35% OF THE CLASS TO DATE

Fall 2022

Law School
Law

LAW 6657 Law Review Note 1.00 -----

Credits In Progress: 1.00

Spring 2023

LAW 6657 Law Review Note 1.00 -----

Credits In Progress: 1.00

***** CONTINUED ON PAGE 2 *****



Katie Cloud
Katie Cloud
Interim University Registrar

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THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON, DC

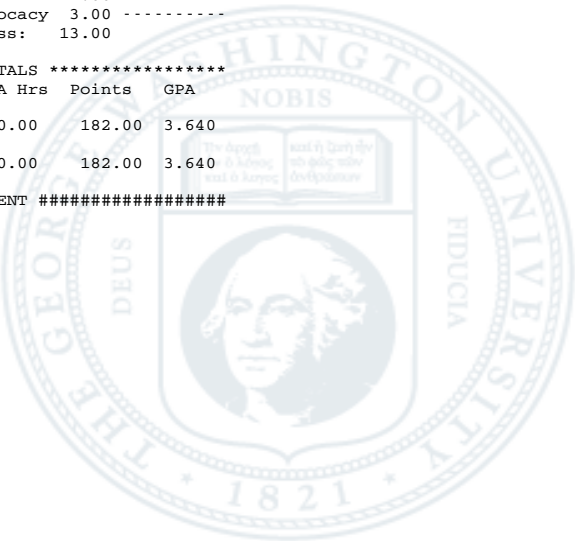
OFFICE OF THE REGISTRAR

GWid : G40155276
Date of Birth: 21-NOV
Record of: Caroline Uehling

Date Issued: 05-JUN-2023
Page: 2

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS

Fall 2023				
LAW 6538	Immigration Law	3.00	-----	
LAW 6633	Civil And Human Rights Clinic	6.00	-----	
LAW 6658	Law Review	1.00	-----	
LAW 6683	College Of Trial Advocacy	3.00	-----	
Credits In Progress:		13.00		
***** TRANSCRIPT TOTALS *****				
Earned Hrs		GPA Hrs	Points	GPA
TOTAL INSTITUTION	57.00	50.00	182.00	3.640
OVERALL	57.00	50.00	182.00	3.640
##### END OF DOCUMENT #####				



Katie Cloud
Katie Cloud
Interim University Registrar

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THE GEORGE WASHINGTON UNIVERSITY
Washington, DC 20052

NOTICE TO RECIPIENT

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DESIGNATION OF CREDIT

All courses are taught in semester hours.

TRANSFER CREDIT

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EXPLANATION OF COURSE NUMBERING SYSTEM

All colleges and schools beginning Fall 2010 semester:

1000 to 1999	Primarily introductory undergraduate courses.
2000 to 4999	Advanced undergraduate courses that can also be taken for graduate credit with permission and additional work.
5000 to 5999	Special courses or part of special programs available to all students as part of ongoing curriculum innovation.
6000 to 6999	For master's, doctoral, and professional-level students; open to advanced undergraduate students with approval of the instructors and the dean or advising office.
8000 to 8999	For master's, doctoral, and professional-level students.

All colleges and schools except the Law School, the School of Medicine and Health Sciences, and the School of Public Health and Health Services before Fall 2010 semester:

001 to 100	Designed for freshman and sophomore students. Open to juniors and seniors with approval. Used by graduate students to make up undergraduate prerequisites. Not for graduate credit.
101 to 200	Designed for junior and senior students. With appropriate approval, specified courses may be taken for graduate credit by completing additional work.
201 to 300	Primarily for graduate students. Open to qualified seniors with approval of instructor and department chair. In School of Business, open only to seniors with a GPA of 3.00 or better as well as approval of department chair and dean.
301 to 400	Graduate School of Education and Human Development, School of Engineering and Applied Science, and Elliott School of International Affairs – Designed primarily for graduate students. Columbian College of Arts and Sciences – Limited to graduate students, primarily for doctoral students. School of Business – Limited to doctoral students.
700s	The 700 series is an ongoing program of curriculum innovation. The series includes courses taught by distinguished University Professors.
801	This number designates Dean's Seminar courses.

The Law School

Before June 1, 1968:

100 to 200	Required courses for first-year students.
201 to 300	Required and elective courses for Bachelor of Laws or Juris Doctor curriculum. Open to master's candidates with approval.
301 to 400	Advanced courses. Primarily for master's candidates. Open to LL.B or J.D. candidates with approval.

After June 1, 1968 through Summer 2010 semester:

201 to 299	Required courses for J.D. candidates.
300 to 499	Designed for second- and third-year J.D. candidates. Open to master's candidates only with special permission.
500 to 850	Designed for advanced law degree students. Open to J.D. candidates only with special permission.

School of Medicine and Health Sciences and

School of Public Health and Health Services before Fall 2010 semester:

001 to 200	Designed for students in undergraduate programs.
201 to 800	Designed for M.D., health sciences, public health, health services, exercise science and other graduate degree candidates in the basic sciences.

CORCORAN COLLEGE OF ART + DESIGN

The George Washington University merged with the Corcoran College of Art + Design, effective August 21, 2014. For the pre-merger Corcoran transcript key, please visit <http://go.gwu.edu/corcorantranscriptkey>

THE CONSORTIUM OF UNIVERSITIES OF
THE WASHINGTON METROPOLITAN AREA

Courses taken through the Consortium are recorded using the visited institutions' department symbol and course number in the first positions of the title field. The visited institution is denoted with one of the following GW abbreviations.

AU	American University	MMU	Marymount University
CORC	Corcoran College of Art & Design	MV	Mount Vernon College
CU	Catholic University of America	NVCC	Northern Virginia Community College
GC	Gallaudet University	PGCC	Prince George's Community College
GU	Georgetown University	SEU	Southeastern University
GL	Georgetown Law Center	TC	Trinity Washington University
GMU	George Mason University	USU	Uniformed Services University of the Health Sciences
HU	Howard University	UDC	University of the District of Columbia
MC	Montgomery College	UMD	University of Maryland

GRADING SYSTEMS

Undergraduate Grading System

A, Excellent; B, Good; C, Satisfactory; D, Low Pass; F, Fail; I, Incomplete; IPG, In Progress; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; P, Pass; NP, No Pass; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the I is replaced by the final grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 2011: The grading symbol RP indicates the class was repeated under Academic Forgiveness.

Effective Fall 2003: The grading symbol R indicates need to repeat course.

Prior to Summer 1992: When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I/ and the grade.

Effective Fall 1987: The following grading symbols were added: A-, B+, B-, C+, C-, D+, D-.

Effective Summer 1980: The grading symbols: P, Pass, and NP, No Pass, replace CR, Credit, and NC, No Credit.

Graduate Grading System

(Excludes Law and M.D. programs.) A, Excellent; B, Good; C, Minimum Pass; F, Failure; I, Incomplete; IPG, In Progress; CR, Credit; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 1994: The following grading symbols were added: A-, B+, B-, C+, C- grades on the graduate level.

Law Grading System

A+, A, A-, Excellent; B+, B, B-, Good; C+, C, C-, Passing; D, Minimum Pass; F, Failure; CR, Credit; NC, No Credit; I, Incomplete. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

M.D. Program Grading System

H, Honors; HP, High Pass; P, Pass; F, Failure; IP, In Progress; I, Incomplete; CN, Conditional; W, Withdrawal; X, Exempt; CN/P, Conditional converted to Pass; CN/F, Conditional converted to Failure. Through Summer 2014 the I was replaced with I and the final grade.

For historical information not included in the transcript key, please visit

<http://www.gwu.edu/transcriptkey>

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THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC

OFFICE OF THE REGISTRAR

Gwid : G40155276

Date of Birth: 21-NOV

Date Issued: 05-JUN-2023

Record of: Caroline Uehling

Page: 1

Student Level: Undergraduate
Admit Term: Fall 2017Issued To: CAROLINE UEHLING
CAROLINEUEHLING@GWU.EDU

REFNUM:5606526

Current College(s):Columbian Coll of Arts & Sci
Current Major(s): History
Political ScienceDegree Awarded: Bachelor of Arts 16-MAY-2021
summa cum laude
Departmental HonorsMajor: History
Major: Political Science

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS

NON-GW HISTORY:				

Fa2017	Advanced Placement Exam Credit			
GEOL 1099	Variable Topics	3.00	TR	
HIST 1011	World History, I500-Present	3.00	TR	
HIST 1120	European Civ In World Context	3.00	TR	
HIST 1310	Intro To American History	3.00	TR	
HIST 1311	Intro To American History	3.00	TR	
MATH 1231	Single-Variable Calculus I	3.00	TR	
MATH 1232	Single-Variable Calculus II	3.00	TR	
PSC 1002	Intro-American Politics & Govt	3.00	TR	
PSYC 1001	General Psychology	3.00	TR	
STAT 1051	Intro-Business & Economic Stat	3.00	TR	
UW 1099	Variable Topics	3.00	TR	
Transfer Hrs: 33.00				

SPRING 2020 Butler University				
PSC 2099	Critical Terrorism Studies	7.50	TR	
PSC 2099	Political Order & Violence Me	7.50	TR	
Transfer Hrs: 15.00				
Total Transfer Hrs: 48.00				

GEORGE WASHINGTON UNIVERSITY CREDIT:

Fall 2017				
Columbian Coll of Arts & Sci				
Arts & Sciences				
ARAB 1001	Beginning Arabic I	4.00	B+	13.20
ECON 1011	Principles Of Economics I	3.00	A-	11.10
HIST 2322	U.S. History Since I945	3.00	A	12.00
HIST 3811	Middle East In 20th Century	3.00	A	12.00
MUS 1083	University Band	1.00	P	0.00
PSC 1001	Intro To Comparative Politics	3.00	A-	11.10
Ehrs 17.00 GPA-Hrs 16.00 Pts 59.40 GPA 3.71				
CUM 17.00 GPA-Hrs 16.00 Pts 59.40 GPA 3.71				
Good Standing				

***** CONTINUED ON NEXT COLUMN *****

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS

Spring 2018				
Columbian Coll of Arts & Sci				
Arts & Sciences				
ARAB 1002	Beginning Arabic II	4.00	B+	13.20
HIST 3044W	Thepriceoffreedom:Normandy1944	4.00	A	16.00
LSPA 1049	Boxing	1.00	P	0.00
MUS 1083	University Band	1.00	P	0.00
PSC 1003	Intro-International Politics	3.00	A	12.00
UW 1020	University Writing	4.00	A	16.00
Ehrs 17.00	GPA-Hrs 15.00 Pts	57.20	GPA	3.81
CUM 34.00	GPA-Hrs 31.00 Pts	116.60	GPA	3.76
Good Standing				
Dean's List				

Fall 2018

ARAB 2001	Intermediate Arabic I	4.00	B+	13.20
GEOL 1005	Environmental Geology	3.00	A	12.00
HIST 2340W	U.S. Diplomatic History	3.00	B+	9.90
HIST 3030	Military History To I860	3.00	A	12.00
LSPA 1059	Cycling	1.00	P	0.00
MUS 1083	University Band	0.00	P	0.00
PSC 2476	The Arab-Israeli Conflict	3.00	A	12.00
Ehrs 17.00	GPA-Hrs 16.00 Pts	59.10	GPA	3.69
CUM 51.00	GPA-Hrs 47.00 Pts	175.70	GPA	3.74
Good Standing				

Spring 2019

Columbian Coll of Arts & Sci				
History				
Political Science				
ARAB 2002	Intermediate Arabic II	4.00	A-	14.80
HIST 3031	Military History Since I815	3.00	A	12.00
HIST 3095	Internship	1.00	A	4.00
HIST 3137	The British Empire	3.00	A	12.00
MATH 1007	Mathematics And Politics	3.00	A	12.00
MUS 1083	University Symphonic Band	0.00	P	0.00
PSC 2377	Comp. Pol. Of The Middle East	3.00	A	12.00
Ehrs 17.00	GPA-Hrs 17.00 Pts	66.80	GPA	3.93
CUM 68.00	GPA-Hrs 64.00 Pts	242.50	GPA	3.79
Good Standing				
Dean's List				

***** CONTINUED ON PAGE 2 *****



Katie Cloud
Katie Cloud
Interim University Registrar

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THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC

OFFICE OF THE REGISTRAR

Gwid : G40155276

Date of Birth: 21-NOV

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Record of: Caroline Uehling

Page: 2

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS
Fall 2019				
ARAB 3001	Advanced Arabic	4.00	A	16.00
HIST 2804	History Of Ancient Israel	3.00	A	12.00
MUS 1083	University Band	1.00	P	0.00
PSC 2240	Poverty, Welfare, And Work	3.00	A	12.00
PSC 2367	Human Rights	3.00	A	12.00
PSC 2440	Theories Of Int'L Politics	3.00	A-	11.10
Ehrs	17.00 GPA-Hrs	16.00	Pts	63.10 GPA 3.94
CUM	85.00 GPA-Hrs	80.00	Pts	305.60 GPA 3.82
Good Standing				
Dean's List				

Spring 2020

EXCH 0007	Undergraduate Study Abroad	0.00	SB	0.00
Ehrs	0.00 GPA-Hrs	0.00	Pts	0.00 GPA 0.00
CUM	85.00 GPA-Hrs	80.00	Pts	305.60 GPA 3.82
Good Standing				
...				
DURING THE SPRING 2020 SEMESTER, A GLOBAL PANDEMIC CAUSED BY COVID-19 RESULTED IN SIGNIFICANT ACADEMIC DISRUPTION.				

Fall 2020

ENGL 1210	Intro To Creative Writing	3.00	A	12.00
HIST 2805W	Plague In Islamic History	3.00	A	12.00
PSC 2101	Scope & Methods In Psc	3.00	A	12.00
PSC 2105	Western Political Thought I	3.00	A-	11.10
PSC 3192W	Ethnic Conflict&Peace Building	3.00	A	12.00
Ehrs	15.00 GPA-Hrs	15.00	Pts	59.10 GPA 3.94
CUM	100.00 GPA-Hrs	95.00	Pts	364.70 GPA 3.84
Good Standing				
Dean's List				

***** CONTINUED ON NEXT COLUMN *****

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS
Spring 2021				
BISC 1006	Ecology/Evolution Of Organisms	3.00	A	12.00
HIST 3062	War Crimes Trials	3.00	A	12.00
HIST 3825	Land&Power In Israel/Palestine	3.00	A	12.00
HIST 4099W	Senior Honors Thesis Tutorialw	3.00	A	12.00
Ehrs	12.00 GPA-Hrs	12.00	Pts	48.00 GPA 4.00
CUM	112.00 GPA-Hrs	107.00	Pts	412.70 GPA 3.86
Good Standing				
Dean's List				

***** TRANSCRIPT TOTALS *****
Earned Hrs GPA Hrs Points GPA

TOTAL INSTITUTION 112.00 107.00 412.70 3.86

TOTAL NON-GW HOURS 48.00 0.00 0.00 0.00

OVERALL 160.00 107.00 412.70 3.86

***** END OF DOCUMENT *****



Katie Cloud
Interim University Registrar

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DESIGNATION OF CREDIT

All courses are taught in semester hours.

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EXPLANATION OF COURSE NUMBERING SYSTEM

All colleges and schools beginning Fall 2010 semester:

1000 to 1999	Primarily introductory undergraduate courses.
2000 to 4999	Advanced undergraduate courses that can also be taken for graduate credit with permission and additional work.
5000 to 5999	Special courses or part of special programs available to all students as part of ongoing curriculum innovation.
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101 to 200	Designed for junior and senior students. With appropriate approval, specified courses may be taken for graduate credit by completing additional work.
201 to 300	Primarily for graduate students. Open to qualified seniors with approval of instructor and department chair. In School of Business, open only to seniors with a GPA of 3.00 or better as well as approval of department chair and dean.
301 to 400	Graduate School of Education and Human Development, School of Engineering and Applied Science, and Elliott School of International Affairs – Designed primarily for graduate students. Columbian College of Arts and Sciences – Limited to graduate students, primarily for doctoral students. School of Business – Limited to doctoral students.
700s	The 700 series is an ongoing program of curriculum innovation. The series includes courses taught by distinguished University Professors.
801	This number designates Dean's Seminar courses.

The Law School

Before June 1, 1968:

100 to 200	Required courses for first-year students.
201 to 300	Required and elective courses for Bachelor of Laws or Juris Doctor curriculum. Open to master's candidates with approval.
301 to 400	Advanced courses. Primarily for master's candidates. Open to LL.B or J.D. candidates with approval.

After June 1, 1968 through Summer 2010 semester:

201 to 299	Required courses for J.D. candidates.
300 to 499	Designed for second- and third-year J.D. candidates. Open to master's candidates only with special permission.
500 to 850	Designed for advanced law degree students. Open to J.D. candidates only with special permission.

School of Medicine and Health Sciences and

School of Public Health and Health Services before Fall 2010 semester:

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201 to 800	Designed for M.D., health sciences, public health, health services, exercise science and other graduate degree candidates in the basic sciences.

CORCORAN COLLEGE OF ART + DESIGN

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GC	Gallaudet University	PGCC	Prince George's Community College
GU	Georgetown University	SEU	Southeastern University
GL	Georgetown Law Center	TC	Trinity Washington University
GMU	George Mason University	USU	Uniformed Services University of the Health Sciences
HU	Howard University	UDC	University of the District of Columbia
MC	Montgomery College	UMD	University of Maryland

GRADING SYSTEMS

Undergraduate Grading System

A, Excellent; B, Good; C, Satisfactory; D, Low Pass; F, Fail; I, Incomplete; IPG, In Progress; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; P, Pass; NP, No Pass; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the I is replaced by the final grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 2011: The grading symbol RP indicates the class was repeated under Academic Forgiveness.

Effective Fall 2003: The grading symbol R indicates need to repeat course.

Prior to Summer 1992: When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I/ and the grade.

Effective Fall 1987: The following grading symbols were added: A-, B+, B-, C+, C-, D+, D-.

Effective Summer 1980: The grading symbols: P, Pass, and NP, No Pass, replace CR, Credit, and NC, No Credit.

Graduate Grading System

(Excludes Law and M.D. programs.) A, Excellent; B, Good; C, Minimum Pass; F, Failure; I, Incomplete; IPG, In Progress; CR, Credit; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 1994: The following grading symbols were added: A-, B+, B-, C+, C- grades on the graduate level.

Law Grading System

A+, A, A-, Excellent; B+, B, B-, Good; C+, C, C-, Passing; D, Minimum Pass; F, Failure; CR, Credit; NC, No Credit; I, Incomplete. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

M.D. Program Grading System

H, Honors; HP, High Pass; P, Pass; F, Failure; IP, In Progress; I, Incomplete; CN, Conditional; W, Withdrawal; X, Exempt; CN/P, Conditional converted to Pass; CN/F, Conditional converted to Failure. Through Summer 2014 the I was replaced with I and the final grade.

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June 11, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

Caroline Uehling is a thoughtful and engaged law student who leans into hard work. She will be a valuable addition to whatever field of law she chooses to pursue, and any legal employer would be lucky to have her.

Caroline was one of the best students in the “Domestic Terrorism” class that I co-taught at George Washington University’s Law School. The class was a seminar that focused on crafting practical policy solutions that would pass legal muster. My co-professor and I are adjuncts. Our day jobs are at the Department of Justice’s National Security Division, where we both focus on domestic terrorism. Caroline contributed greatly to the class, and to her classmates. She was not always the most talkative student—a relatively easy feat, in any event—but she was consistently one of the most thoughtful—a far harder challenge.

The rapidly evolving, multifaceted nature of the domestic terrorism threat admittedly makes for a challenging class. Our students not only had to master the basics of applicable criminal law, but also become quick-study experts in subject matters ranging from First Amendment protections to the bureaucracy of the national security state to some of the worst moments in American history. Furthermore, for their final project, students could not simply regurgitate the debates they had in class, but had to undertake significant additional research to complete a lengthy paper on a topic of their choosing.

For her paper, Caroline chose to tackle not one but two complex areas: the scope of the First Amendment as it relates to responses to domestic terrorism, and how that scope compares to the laws and practices of our close counterterrorism ally, the United Kingdom. Relying on a robust array of governmental, judicial, and academic sources from both here and across the pond, Caroline did an excellent job and earned one of the top grades in the class. I was especially impressed by her ability to incorporate principles from international agreements such as the International Convention on Civil and Political Rights in making her arguments concerning social media regulations. The paper displayed Caroline’s passion for international law, a topic in which I understand she has excelled in other classes as well.

In short, Caroline is a cogent and cheerful legal thinker who shows great promise.

Please do not hesitate to contact me for any further information.

Sincerely,

Colin T. Ross
Attorney Advisor, Office of Law & Policy
National Security Division, U.S. Dep’t of Justice
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June 11, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to recommend Caroline "Carly" Uehling for a clerkship. Carly is a bright and capable second year law student who would be an invaluable asset your chambers.

Carly was my student in my first year Fundamentals of Lawyering class at The George Washington University Law School. This is a year-long course and she was one of 16 students in this small class. I have gotten to know Carly well both inside and outside the classroom during her first two years at GW. I feel qualified to appraise her writing skills, analytical ability, professional judgment, and work ethic, among other qualities.

Carly's academic credentials speak for themselves: she is a summa cum laude graduate of The George Washington University and a Thurgood Marshall Scholar at GW Law. She certainly has the aptitude and acumen for a clerkship and, in my view, the personal characteristics as well.

Fundamentals of Lawyering encompasses the traditional legal research and writing curriculum, but filters it through a client service lens. Students represent a "client" in the fall and the spring and focus on "solving a problem" for their client and communicating those solutions. Carly is a strong writer and a sound analytical thinker. She's a particularly strong predictive writer and her objective memos are clear, concise, and structured well. She's therefore particularly well-suited to writing bench memos and judicial opinions.

Carly noted that she was "not a particularly talkative person." Over the course of the year, however, she came out of her shell and made thoughtful contributions to class without prompting. Her quiet, humble, unassuming demeanor is, in a word, refreshing and I have seen her quiet confidence grow in the time I have known her. She is a listener and observer rather than a talker, but through her writing and her class contributions when called upon, she makes clear that she does not miss a beat.

Indeed, she was one of the two strongest writers in my section and I nominated her to be an upper level Writing Fellow to assist first year students with their writing. In this capacity, she worked one-on-one to mentor and tutor students on their writing assignments. She thrived in that role and many first year students returned to her throughout the year to seek more advice.

On a personal note, Carly is a quiet leader in the classroom who is liked and respected by her peers. She was a thoughtful contributor to class discussions and a cooperative team player during group exercises. Carly excels at giving her peers feedback on their written work to make it stronger and always receives feedback thoughtfully on her own writing.

Outside of law school, Carly loves baseball (especially the Phillies) and recently traveled to Florida for Spring Training. She plays the trombone, gardens, and propagates plants. Carly's grandfather, a D-Day survivor, inspired her interest in World War II history. Her favorite class in her undergraduate studies was about the history of the Normandy invasion and she interned at the Albert H. Small Institute. I highlight these diverse interests because with Carly, there is more than meets the eye. And speaking to her always reveals a different interest that she engages with beyond the surface level.

When I asked Carly why she came to law school, she wrote: "I think lawyers have far more agency to respond to certain problems facing the country/world than people without an understanding of our legal system." Her awareness of a lawyer's responsibility to the profession belies her young age and relative lack of legal experience. I think this quote captures the thoughtfulness and intentionality with which Carly approaches her legal studies.

Carly's skills and personality traits will make Carly a successful clerk and the type of lawyer our profession needs more of. I recommend her without reservation. If I can provide more information about her qualifications, please do not hesitate to contact me.

Sincerely,

Erika N. Pont

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June 11, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write with great enthusiasm to recommend Caroline “Carly” Uehling for a clerkship in your chambers. Carly took my Evidence course in Fall 2022, and was a standout student in class, with unfailingly well-timed and on-point comments. She also received an excellent grade in the class, performing in the top 15–20% of a highly competitive 80-person class. She excelled on the multiple choice questions (relatively straightforward applications of evidence law), the hypothetical questions (very complex issue-spotters), and the policy question (which required in-depth application of the law to a real-world issue). It is unusual for a student to do so well on all three types of writing and thinking, especially under tight time pressure.

I have had the opportunity to talk with Carly on a number of occasions about her goals and interests. One of the experiences from which she has learned the most is her work in the U.S. District Court for the District of Maryland in Baltimore, where worked this past summer. In that capacity, she had an opportunity to draft orders and memoranda, and developed a particular facility for prisoners’ civil rights cases—a testament to her ability to parse complex legal issues.

Additionally, beginning while she was an undergraduate and continuing into law school, Carly has spent several months at Gilbert Employment Law. Gilbert is a medium-sized law firm in Silver Spring, Maryland that handles a range of employment issues, including EEOC matters, whistleblower claims, and other employment matters in both the public and private sector. Carly began working there in 2018, and over the numerous stints she has spent at the firm, Carly has been entrusted with increasingly important matters. She began by organizing documents and sitting in on client meetings, and by 2021, she was conducting initial consultations, taking depositions, and meeting with clients herself. Carly’s dedication to the firm, and her interest in working closely with the same group of people over time, illustrates something powerful about the way I believe she would contribute to a productive work atmosphere in chambers: when Carly becomes part of something, she is extremely dedicated to it. This summer, Carly will be taking on a particularly challenging job, working for the Military Commissions Defense organization on the defense team for a detainee at Guantanamo Bay. Her interest in challenging herself and taking on new experiences and increasingly complex cases will also serve her well as a clerk.

Over her time in law school, Carly has sought out and excelled in many different activities and experiences. She was selected as Articles Editor of The George Washington Law School Law Review, which is a particularly important and challenging role on a prestigious journal. In this capacity, she has fine-tuned her editing skills and also become familiar with a wide range of legal scholarship, practice areas, and writing styles. Additionally, she works as both a Writing Fellow and a Civil Procedure tutor; a Research Assistant to Professor Miriam Galston, and also volunteers for the International Refugee Assistance Project. This range of commitments is impressive for its number, but even more so for its range. It has allowed Carly to cultivate a broad variety of strengths that will serve her well as a lawyer, including her written skills, analytical skills, research skills, and interpersonal skills as a collaborator.

Carly’s academic prowess is also evidenced in her GPA, which has been consistently solid every semester; this performance is particularly impressive given her selection of challenging doctrinal classes: Administrative Law, International Law, Evidence, Criminal Procedure, and many others. Carly has been named a Thurgood Marshall Scholar (ranked in the top 16%–35% of students in her class) every semester so far in law school. The consistency of her performance is typical of everything I know about her: Carly comes to every class, meeting, and experience extremely well-prepared. Her manner is extremely low-key, friendly, and collaborative, and she strikes me as a person who works hard, possesses a keen intelligence, and is not easily ruffled.

In sum, Carly is precisely the sort of clerk I would want in chambers. I am happy to elaborate further if you think it would be useful. My cell number is (650) 862-5194. Please feel free to email or call any time.

Sincerely yours,

Kathryne M. Young
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Writing Sample

The following writing sample is an excerpt of my Note entitled: “Dropped Third Strike? Preparing the Prison Litigation Reform Act for the Next Pandemic.” I found inspiration for this topic while reviewing prisoner civil rights complaints during my summer internship with the Prosecutive Staff Attorney’s Office for the U.S. District Court for the District of Maryland. I omitted Part III, which proposes a judicial and legislative solution to the problems outlined in the previous two parts. While the work is entirely mine, I received minor feedback from my professor, my Notes Editor, and peers as part of the regular Note-writing process.

“Like much of society, these residents watched the news and saw the President of the United States and the Governor of New Jersey imploring – and in some instances requiring – all Americans to practice ‘social distancing,’ to avoid congregating in groups, to wash their hands and use hand sanitizer regularly, to disinfect frequently touched surface, and to seek prompt medical attention if symptoms develop. Unlike the rest of society... DOC residents cannot.”¹

Introduction

When the COVID-19 pandemic broke out in the United States in March 2020, prisons and jails were by their nature particularly susceptible to the spread of the virus.² Prisons and jails are frequently overcrowded and have limited access to quality healthcare.³ The simplest way to reduce potential spread in prisons was through reducing the prison population, and while many state prisons notably lowered their populations, they achieved this primarily through reduced prison admissions rather than increased releases.⁴ Even states with reduced prison populations were not able to accommodate social distancing and quarantine.⁵ The death rate from COVID-19 in prisons during its first year reaching twice that of the death rate in the general U.S. population reflected the severe cost of the failure to stop the spread of the virus in prisons.⁶

When prison conditions are particularly deficient, incarcerated people can invoke the Eighth Amendment’s protections against cruel and unusual punishment.⁷ Historically, incarcerated people challenged prison conditions under the Civil Rights Act of 1871, 42 U.S.C. § 1983, which authorizes lawsuits against state or local officials who violate constitutional rights

¹ Complaint at 4-5, *Brown v. Warren*, No. 1:20-cv-07907-NLH-AMD (D. N.J. June 26, 2020).

² *Reducing Jail and Prison Populations During the Covid-19 Pandemic*, THE BRENNAN CENTER FOR JUSTICE, <https://www.brennancenter.org/our-work/research-reports/reducing-jail-and-prison-populations-during-covid-19-pandemic> (Mar. 27, 2020).

³ *Id.*

⁴ Emily Widra, *State prisons and local jails appear indifferent to COVID outbreaks, refusing to depopulate dangerous facilities*, PRISON POLICY INITIATIVE, https://www.prisonpolicy.org/blog/2022/02/10/february2022_population/ (Feb 10, 2022).

⁵ *Id.*

⁶ *Id.*

⁷ U.S. CONST. amend. VIII.

while acting under the color of the law.⁸ However, in recent decades, it has become increasingly difficult for incarcerated people to turn to federal courts to vindicate their constitutional rights.⁹

The Prison Litigation Reform Act (“PLRA”), which passed in 1996, severely curtailed the recourse of prisoners in federal courts.¹⁰ Because Congress worried that it was easy for prisoners to bog down federal courts with frivolous lawsuits, it created new barriers such as an administrative exhaustion requirement and a requirement that indigent plaintiffs proceeding *in forma pauperis*¹¹ pay all filing fees through a payment plan.¹² Most notably for the purposes of this Note, it also created a “three strike” rule.¹³ If plaintiffs have three lawsuits dismissed for being frivolous, malicious, or failing to state a claim, they can no longer utilize *in forma pauperis* status, even though the initial suits certified their inability to pay.¹⁴ Some circuits interpret this provision broadly, considering even dismissals under *Heck v. Humphrey*, which requires plaintiffs to successfully challenge their criminal convictions before raising § 1983 claims about the same circumstances,¹⁵ to be dismissals for failure to state a claim.¹⁶ Furthermore, although the PLRA creates an exception to the three-strike requirement when there is imminent danger to the plaintiff,¹⁷ it creates no similar exception for special circumstances or

⁸ William H. Danne, *Prison Conditions as Amounting to Cruel and Unusual Punishment*, 51 A.L.R.3d 111.
⁹ See, e.g., Margo Schlanger, *Inmate Litigation*, 116 HARV. L. REV. 1555 (2003); Margo Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, CORRECTIONAL LAW REPORTER, <https://www.law.umich.edu/facultyhome/margoschlanger/Documents/Publications/Trends%20in%20Prisoner%20Litigation%20as%20the%20PLRA%20Approaches%2020.pdf>.

¹⁰ Rachel Poser, *Why It's Nearly Impossible for Prisoners to Sue Prisons*, THE NEW YORKER, <https://www.newyorker.com/news/news-desk/why-its-nearly-impossible-for-prisoners-to-sue-prisons> (May 30, 2016).

¹¹ Plaintiffs proceeding *in forma pauperis* are unable to provide security for the payment of the costs of the lawsuit due to poverty. In general, statutes ensure that such plaintiffs can file lawsuits by requiring the government to pay court fees or waiving the prepayment of fees. E.E. Woods, *What costs or fees are contemplated by statute authorizing proceedings in forma pauperis*, 98 A.L.R.2d 292 (2023).

¹² Margo Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, *supra* note 9, at 70.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Heck v. Humphrey*, 512 U.S. 477, 478-479 (1994).

¹⁶ *Garrett v. Murphy*, 17 F.4th 419 (3rd Cir. 2021); *Teagan v. City of McDonough*, 949 F.3d 670, 677 (11th Cir. 2020); *O'Brien v. Town of Bellingham*, 943 F.3d 514, 529 (1st Cir. 2019).

¹⁷ 28 U.S.C. § 1915(g).

public health crises.¹⁸ The Eleventh Circuit even interprets the PLRA to prevent the joinder of parties under Federal Rule of Civil Procedure (“FRCP”) 20,¹⁹ despite the lack of language in the PLRA supporting that provision.²⁰

This Note argues that the PLRA has created a legacy of not simply filtering the prisoner civil rights complaints that reach federal courts, but of barring meritorious claims. In particular, the three-strike provision prevents courts from exercising oversight over potentially unconstitutional conditions in prisons simply because a plaintiff raised complaints with deficiencies in the past.²¹ Although courts invoke the purposes of the PLRA when determining the application of the three-strike provision, the numerous circuit splits regarding application demonstrate the uncertainty of legislative intent in multiple contexts.²² Courts that broadly award litigants strikes and then bar prisoner plaintiffs from joining under FRCP 20 through their interpretation of the strike rule are not protecting federal courts from frivolous prisoner complaints. Instead, these interpretations hinder the practical process of raising legitimate claims. The COVID-19 pandemic demonstrates the importance of allowing legitimate conditions complaints to reach federal courts.²³ Additionally, conditions complaints against the broad treatment of inmates are well-suited for joinder. Judicial interpretation may be the only avenue for broadening access, but legislative action may be possible if Congress recognizes how inmate litigation can converge with the public interest. Because interpreting the three-strikes provision

¹⁸ See *infra* Part III.B.

¹⁹ *Hubbard v. Haley*, 262 F.3d 1194 (11th 2001).

²⁰ The three-strike provision does not address joinder. See 28 U.S.C. § 1915(g).

²¹ See The Prison Litigation Reform Act of 1995 (PLRA), Pub. L. No. 104–134, tit. VIII, 110 Stat. 1321 (1996) (codified in part at 28 U.S.C. § 1915) at § 1915(g).

²² 4 RICHARD D. FREER, *FEDERAL PRACTICE - CIVIL* § 20.10 (2023).

²³ See Margo Schlanger & Betsy Ginsberg, *AEDPA and the PLRA After 25 Years: Pandemic Rules: COVID-19 and the Prison Litigation Reform Act’s Exhaustion Requirement*, 72 CASE W. RES. 533, 562–563 (2022) (arguing that “justice requires” easing the administrative exhaustion requirement of the PLRA during emergency circumstances because failed COVID-19 legislation shows how the PLRA closed courthouse doors to important complaints).

of the PLRA broadly halts potentially meritorious, important complaints before they reach federal courts, courts should not count *Heck* dismissals as strikes and Congress should create a specific exception to the three-strike provision for plaintiffs joined to raise public health-related conditions complaints.

Part I of this Note describes COVID-19 in prisons and outlines the passage, provisions, and general criticism of the PLRA. Part II details the three-strike provision, questions about how the provision applies to certain types of dismissals and the Supreme Court's ruling in *Heck v. Humphrey*, and the debate over applying FRCP 20 to prison litigation following the PLRA. Part III proposes that courts should adopt a narrow interpretation of the three-strike provision and that Congress should enact an exception to the three-strike provision for specific joint litigation, which would allow incarcerated individuals to both hold officials accountable when their conditions are unexpectedly imperiled and protect the wider community.

I. COVID-19 in Prisons and The Prison Litigation Reform Act

When the coronavirus entered jails and prisons, the inherent conditions of incarceration made transmission likely and many officials lacked resources to even begin taking preventative measures.²⁴ Although the prison litigation that arose out of these circumstances theoretically presented just the type of inconvenience Congress anticipated when creating the PLRA,²⁵ Congress failed to anticipate that prison conditions do not simply harm incarcerated individuals.²⁶ Prisons are not isolated from the outside world, and problems like infectious diseases that proliferate in prisons will spread to the deficient infrastructure of the surrounding

²⁴ *Covid-19's Impact on People in Prison*, EQUAL JUSTICE INITIATIVE (Apr. 16, 2021) <https://eji.org/news/covid-19s-impact-on-people-in-prison/>.

²⁵ The declared purpose of the PLRA was to help overburdened courts. Schlanger, *Inmate Litigation*, *supra* note 9, at 1565-1566.

²⁶ The passage of the PLRA focused on litigants and courts, not the wider impact of litigation. *See id.*

communities.²⁷ This Part will explain the impact of the coronavirus on prisons, attempts at § 1983 coronavirus suits, and the passage and impact of the PLRA.

A. COVID-19 in Prisons

Incarcerated individuals are particularly vulnerable to communicable diseases due to the inherent conditions of their confinement, and that problem was exacerbated in the early months of the COVID-19 pandemic.²⁸ Data collected by The Marshall Project and The Associated Press suggested that by December 2020, one in every five federal and state prisoner had contracted the coronavirus.²⁹ According to the Bureau of Justice Statistics, between March 2020 and February 2021, approximately 2,500 state and federal prisoners died of COVID-19-related cases.³⁰ Forty-four percent of COVID-19-related deaths were white incarcerated individuals, while thirty-four percent were Black individuals.³¹ During this period 396,300 viral tests were positive, accounting for an 8.2 percent positive rate in state and federal prisons.³²

The prison population presented a unique challenge in the United States because of its disproportionate size and particular vulnerability.³³ Although countries throughout the world faced questions about how to prevent the spread of a virus in confined correctional

²⁷ Anna Flagg & Joseph Neff, *Why Jails Are So Important in the Fight Against Coronavirus*, N.Y. TIMES (March 31, 2020) <https://www.nytimes.com/2020/03/31/upshot/coronavirus-jails-prisons.html?searchResultPosition=1>.

²⁸ *Covid-19's Impact on People in Prison*, Equal Justice Initiative (Apr. 16, 2021) <https://eji.org/news/covid-19s-impact-on-people-in-prison/>.

²⁹ Beth Schwartzapel, Katie Park, & Andrew Demillo, *1 in 5 Prisoners in the U.S. Has Had COVID-19*, THE MARSHALL PROJECT (Dec. 18, 2020) <https://www.themarshallproject.org/2020/12/18/1-in-5-prisoners-in-the-u-s-has-had-covid-19>.

³⁰ BUREAU OF JUSTICE STATISTICS, IMPACT OF COVID-19 ON STATE AND FEDERAL PRISONS, MARCH 2020-FEBRUARY 2021, 1 <https://bjs.ojp.gov/library/publications/impact-covid-19-state-and-federal-prisons-march-2020-february-2021>.

³¹ *Id.* at 1.

³² *Id.*

³³ See Benjamin A. Barsky et. al., *Vaccination plus Decarceration—Stopping Covid-19 in Jails and Prisons*, N. ENGL. J. OF MED. 1583 (2021); Weihua Li & Nicole Lewis, *This Chart Shows Why the Prison Population is So Vulnerable to COVID-19*, THE MARSHALL PROJECT (March 19, 2020) <https://www.themarshallproject.org/2020/03/19/this-chart-shows-why-the-prison-population-is-so-vulnerable-to-covid-19>.

environments, U.S. jails and prisons were responsible for twenty-five percent of the world's incarcerated individuals.³⁴ In addition to the tight quarters of prisons, there was also constant movement that encouraged the spread of the virus.³⁵ Public health experts urged that the most effective way to prevent the spread of COVID-19 in prisons was through decarceration; early statistics indicated that decarceration did not lead to an increase in rearrest rates, and diminishing the spread of the virus had the greatest impact on the health and safety of the communities near prisons.³⁶ For example, a nine percent reduction in the carceral population was associated with a fifty-six percent decrease in transmission.³⁷ Public health experts warned that extensive measures were necessary because even when vaccines became available, it would not guarantee an end to the virus within prisons.³⁸ If incarcerated individuals were prioritized in vaccine rollouts, even highly effective vaccines could not prevent the spread of viruses completely in “high-spread, congregate settings.”³⁹ Furthermore, incarcerated individuals would be particularly likely to be vaccine hesitant, as they had reduced access to information and a distrust of the institution responsible for their incarceration.⁴⁰

The United States also faced the challenge of an aging prison population that was more susceptible to complications from contracting the virus.⁴¹ Although in the past young adults between the ages of eighteen and twenty-four made up a larger percentage of the state prison population, this changed as the population of state prisons, incarcerated from the harsh sentencing laws of the 1980s and 1990s, aged.⁴² In fact, the percentage of people in state prisons

³⁴ Barsky, *supra* note 33 at 1583.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 1585.

³⁸ *Id.* at 1584.

³⁹ *Id.*

⁴⁰ *Id.* at 1584-1585.

⁴¹ Li & Lewis, *supra* note 33.

⁴² *Id.*

fifty-five and older tripled between 2000 and 2016.⁴³ Compounding this issue, older individuals were also more likely to have chronic conditions, which correctional facilities frequently lacked the resources to treat.⁴⁴

In response to the pandemic, the Center for Disease Control (“CDC”) issued guidance for people living in jails and prisons.⁴⁵ The guidance recommended that incarcerated individuals get vaccinated; maintain physical distance by avoiding crowds and distancing during recreation, mealtime, and when walking in hallways; wear a mask when around staff or people from a different housing unit; and wash hands with soap and water for twenty seconds.⁴⁶ In recognition of the abundant common areas in prisons, the CDC recommended going outside for recreation time and sleeping head to foot if there was more than one bed in the room.⁴⁷ However, these measures, minimal to begin with, were not always implemented in practice.⁴⁸

The impact of the high transmission rate of the coronavirus among incarcerated individuals spread beyond the walls of prisons.⁴⁹ There is enormous turnover in jails, which have a far less stable population than prisons; on average, 200,000 people enter jails and about the same number exit jails every week.⁵⁰ Contact with non-incarcerated individuals is unavoidable, as workers must interact with incarcerated people.⁵¹ In small towns that house prisons, large

⁴³ *Id.* In this article, Li and Lewis note that 2016 is the most recent date when this detailed data is available. The data is, however, indicative of the present trend in correctional populations.

⁴⁴ *Id.*

⁴⁵ CENTER FOR DISEASE CONTROL, FOR PEOPLE LIVING IN PRISONS AND JAILS (Sept. 3, 2021) <https://permanent.fdlp.gov/gpo159641/www.cdc.gov/coronavirus/2019-ncov/downloads/needs-extra-precautions/For-People-Living-in-Prisons-and-Jails.pdf>.

⁴⁶ *Id.* at 2.

⁴⁷ *Id.* at 3.

⁴⁸ *Infra* Part I.B.

⁴⁹ See Flagg & Neff, *supra* note 27.

⁵⁰ *Id.*

⁵¹ *Id.*

percentages of the population work in the prisons.⁵² Small towns also often have poor health infrastructure, which leads to high mortality rates even during times that do not constitute public health emergencies.⁵³ Throughout the COVID-19 pandemic, prisoner litigants have attempted to halt the pandemic's impact by filing civil rights lawsuits.⁵⁴

B. COVID-19 § 1983 Lawsuits

In response to inadequate housing conditions during the pandemic in jails and prisons, many incarcerated individuals brought civil rights claims under § 1983.⁵⁵ In June 2020, eight inmates asserted that the Cumberland County Correctional Facility in New Jersey failed to provide staff with adequate cleaning supplies, instead relying on the Department of Corrections (“DOC”) residents to clean personal and common areas without provisions of masks, gloves, or other equipment.⁵⁶ Given no cleaning supplies, residents were told to clean their cells with water and their own soap and towels used for bathing.⁵⁷ Additionally, the plaintiffs noted that despite residents exhibiting symptoms, they did not receive COVID-19 tests.⁵⁸ Facility officials then made statements about no inmates testing positive.⁵⁹ Social distancing was impossible because

⁵² In the town of Homer, Louisiana, the population is 3,000: 1,244 individuals are incarcerated and 350 people work in the prison. Jonathan Ben-Menachem, *Coronavirus Exposes Precarity of Prison Towns*, THE APPEAL (Apr. 21, 2020) <https://theappeal.org/coronavirus-prison-towns/>.

⁵³ *Id.*

⁵⁴ See Brown v. Warren, No. 1:20-cv-07907-NLH-AMD (D. N.J. June 26, 2020); Complaint, Maney v. Brown, No. 6:20-cv-00570-SB (D. Or. Apr. 6, 2020); Complaint, Frazier v. Kelley, No. 4:20-cv-00434 (E.D. Ark. Apr. 21, 2020); Complaint, Waddell v. Taylor, No. 5:20-cv-00340 (S.D. Miss. May 14, 2020); Complaint, Hanna v. Peters, No. 2:21-cv-00493-SB (D. Or. Apr. 1, 2021).

⁵⁵ See Brown v. Warren, No. 1:20-cv-07907-NLH-AMD (D. N.J. June 26, 2020); Complaint, Maney v. Brown, No. 6:20-cv-00570-SB (D. Or. Apr. 6, 2020); Complaint, Frazier v. Kelley, No. 4:20-cv-00434 (E.D. Ark. Apr. 21, 2020); Complaint, Waddell v. Taylor, No. 5:20-cv-00340 (S.D. Miss. May 14, 2020); Complaint, Hanna v. Peters, No. 2:21-cv-00493-SB (D. Or. Apr. 1, 2021).

⁵⁶ Brown v. Warren, No. 1:20-cv-07907-NLH-AMD, at 12.

⁵⁷ *Id.*

⁵⁸ *Id.* at 14.

⁵⁹ *Id.*

cells housed two people and the only time inmates could leave their cells was to be in common areas, where congregation was inevitable.⁶⁰

While some § 1983 lawsuits focused on prisons' initial COVID-19 response,⁶¹ others stated that correctional facilities failed to respond to the needs of inmates as the pandemic continued.⁶² In Oregon, a plaintiff wrote that despite DOC policies mandating prison staff to wear masks when interacting with inmates, staff of the Two Rivers Correctional Institute disregarded the instructions and superiors made no attempt to enforce the requirements.⁶³ Furthermore, the prison implemented “pat down” procedures when inmates waited in halls for meal, which led to unmasked officers moving from inmate to inmate while wearing the same gloves.⁶⁴

Although these suits are all ongoing, many similar lawsuits ran into the barriers imposed by the PLRA.⁶⁵ Plaintiffs barred from bringing claims under the PLRA due to their past filing history cannot reach an adjudication on the merits of their conditions complaints.⁶⁶

C. The “Explosion” of Prison Litigation and the Passage of the PLRA

There are several avenues through which incarcerated people can pursue litigation in federal court either by challenging their convictions or the conditions of their incarceration.⁶⁷

⁶⁰ *Id.* at 15.

⁶¹ See Complaint, Maney v. Brown, No. 6:20-cv-00570-SB (D. Or. Apr. 6, 2020); Complaint, Frazier v. Kelley, No. 4:20-cv-00434 (E.D. Ark. Apr. 21, 2020); Complaint, Waddell v. Taylor, No. 5:20-cv-00340 (S.D. Miss. May 14, 2020).

⁶² See Complaint at 6, Hanna v. Peters, No. 2:21-cv-00493-SB (D. Or. Apr. 1, 2021).

⁶³ *Id.*

⁶⁴ *Id.* at 4.

⁶⁵ See, e.g., Garrett v. Murphy, 17 F.4th 419 (3rd Cir. 2021); Schlanger & Ginsberg, *supra* note 23, at 537 (describing how the PLRA's exhaustion requirement halted COVID-19 lawsuits).

⁶⁶ *No Equal Justice: The Prison Litigation Reform Act in the United States*, THE APPEAL <https://theappeal.org/the-lab/explainers/how-the-prison-litigation-reform-act-has-failed-for-25-years/>.

⁶⁷ Federal district courts can grant writs of habeas corpus when a prisoner “is in custody in violation of the Constitution or laws or treaties of the United States.” Michael L. Zuckerman, *When the Conditions are the Confinement: Eighth Amendment Habeas Claims During COVID-19*, 90 U. CIN. L. REV. 1, 6 (2021) (citing 28 U.S.C. § 2241(a)). Inmate civil rights litigation often involves complaints of physical assaults by other inmates or staff, inadequate medical care, disciplinary actions lacking adequate due process, and generally poor living-conditions, but complaints sometimes refer to freedom of religion or speech.

Most relevantly, prisoners can bring lawsuits when their rights were deprived by a state actor under 42 U.S.C. § 1983, which states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State... subjects, or causes to be subjected, any citizen... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . .⁶⁸

Under § 1983, individuals can sue defendants acting on behalf of the state or local government.⁶⁹

Although people can bring § 1983 suits against local or state officials for many reasons, such as the violation of Fourth or Eighth Amendment rights during an arrest, the statute is particularly significant for individuals incarcerated in state prisons, who can bring claims against the officials operating those prisons.⁷⁰ Prisoners can bring civil rights complaints under § 1983 if they experience cruel and unusual punishment in violation of either their constitutional rights under the Eighth Amendment, in the case of incarcerated individuals, or under the Fourteenth Amendment, in the case of pretrial detainees.⁷¹

Congress determined it needed to modify this process, however, because the latter half of the twentieth century saw a marked increase in the number of § 1983 suits and related federal lawsuits.⁷² In 1970, there were 2,244 prisoner civil rights complaints filed in federal district

Schlanger, *Inmate Litigation*, supra note 9, at 1571. Although inmates used both avenues during the pandemic, this Note focuses on civil rights litigation, which provides different remedies than habeas petitions.

⁶⁸ 42 U.S.C. § 1983.

⁶⁹ *Id.* These are distinct from suits against federal employees, which are *Bivens* actions. *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

⁷⁰ *Helling v. McKinney*, 509 U.S. 25 (1993).

⁷¹ *Helling v. McKinney*, 509 U.S. 25 (1993) (alleging that defendants, with deliberate indifference, exposed plaintiff to unreasonable risks for future health stated Eighth Amendment claim for which relief could be granted); *Hutto v. Finney*, 437 U.S. 678 (1978) (finding conditions in prison system constituted cruel and unusual punishment in violation of Eighth and Fourteenth Amendments).

⁷² BERNARD D. REAMS, JR. AND WILLIAM H. MANZ, *Introduction, A LEGISLATIVE HISTORY OF THE PRISON LITIGATION REFORM ACT OF 1996*, at iii (1997).

courts.⁷³ By 1995, that number increased to 39,053.⁷⁴ At the same time, the total incarcerated population in the United States grew from 359,419 to 1,597,044.⁷⁵ Therefore, the rate of filings per 1,000 incarcerated people grew from 6.2 to 24.5 filings.⁷⁶ Due to the screening burden prison litigation, which was usually filed *pro se* and *in forma pauperis* and decided during pleading stages, placed on district courts, Congress determined that legislation was necessary to improve case management.⁷⁷ In 1996, Congress passed the PLRA with the intention of curbing an increase in prison litigation.⁷⁸ However, it was somewhat misguided in attributing the increased burden on federal courts entirely on lawsuits from incarcerated individuals. Rather, the tripling of the U.S. prison and jail population from 1980 to 1995 burdened the capacity of federal courts to address prison litigation, not simply an increased desire to litigate from the prison population.⁷⁹ The filing rate actually declined in the 1980s after rising in the 1970s, but the filing rates rose again between 1990 and 1995.⁸⁰ Even when filing rates rose, prisoners were filing lawsuits at a similar rate to non-incarcerated people while being exposed to more potentially dangerous situations.⁸¹

The legislation both barred lawsuits and made positive outcomes less likely.⁸² To prevent prisoners from attempting to bring lawsuits, the PLRA increased filing fees, prevented

⁷³ *Id.*; Margo Schlanger, *Incarcerated Population and Prison/Jail Civil Rights/Conditions Filings, FY 1970 – FY 2021*, INCARCERATION LAW, <https://incarcerationlaw.com/resources/data-update/#TableA>.

⁷⁴ Schlanger, *Incarcerated Population and Prison/Jail Civil Rights/Conditions Filings, FY 1970 – FY 2021*, *supra* note 73.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Reams, *supra* note 72, at iii.

⁷⁸ *Id.*

⁷⁹ Easha Anand, Emily Clark & Daniel Greenfield, *How the Prison Litigation Reform Act Has Failed For 25 Years*, THE APPEAL, <https://theappeal.org/the-lab/explainers/how-the-prison-litigation-reform-act-has-failed-for-25-years/>; See Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, *supra* note 9, at 70-72.

⁸⁰ Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, *supra* note 9, at 70.

⁸¹ *No Equal Justice: The Prison Litigation Reform Act in the United States*, *supra* note 66.

⁸² Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, *supra* note 9, at 70.

individuals from filing until they had exhausted administrative remedies within the prison system, and implemented a three-strike rule requiring “frequent” lawsuit filers to produce filing fees regardless of their capacity to pay.⁸³ Moreover, it limited damages and attorney’s fees.⁸⁴ It also required plaintiffs to suffer a physical injury to recover monetary damages; mental or emotional injuries were not adequate.⁸⁵

Courts’ interpretations of the PLRA’s provisions have succeeded in curtailed both the filing and outcomes of prisoner suits.⁸⁶ The exhaustion rule requires that individuals seek accountability within the prison administrative system first, and courts largely discount the feasibility of prison grievances under the circumstances.⁸⁷ Although the Supreme Court has recognized that certain conditions make the administrative grievance process not “available” in practice, therefore waiving the requirement to exhaust, judges vary in their interpretation of what constitutes availability and sometimes require a high standard.⁸⁸ Following the PLRA’s passage, the average rate of filings per 1000 inmates decreased from a range of 20.0-24.9 from 1990-1996 to a range of 9.6-15.1 between 1997 and 2014.⁸⁹

Although critics of the PLRA acknowledge the reasonableness of limiting the number of frivolous claims in federal courts and maximizing the courts’ productivity, reports show that provisions of the PLRA have led to dismissals of claims regarding sexual assault, intentional abuse by prison staff, and other serious injuries.⁹⁰ Because the United States does not have an independent national agency to monitor conditions in prisons and jails like many other

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Anand, Clark, and Greenfield, *supra* note 79.

⁸⁶ See Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, *supra* note 9, at 71.

⁸⁷ Anand, Clark, and Greenfield, *supra* note 79.

⁸⁸ *Booth v. Churner*, 532 U.S. 731, 741 (2001); *Ross v. Blake*, 578 U.S. 632, 643 (2016).

⁸⁹ Schlanger, *Trends in Prisoner Litigation as the PLRA Approaches 20*, *supra* note 9, at 71.

⁹⁰ Anand, Clark, and Greenfield, *supra* note 79.

democracies, federal courts play an important role in oversight and reform of conditions.⁹¹ Additionally, because convicted prisoners are barred from voting in the vast majority of states, the Supreme Court has noted that the right of prisoners to federal courts is even more important: “the right to file a court action might be said to be [a prisoner’s] remaining most fundamental political right, because preservative of all rights.”⁹² As prisoners cannot spur action through the executive or legislative branch, the judicial branch is the avenue that remains.

II. Defining and Interpreting the PLRA’s Three-Strike Rule

In 2020, Allen Dupree Garrett sued New Jersey state officials asserting that they kept him in pretrial detention with deliberate indifference to the imminent risk of contracting COVID-19, which violated his substantive due process rights.⁹³ He attempted to proceed *in forma pauperis*, which would allow the payment of filing fees over time.⁹⁴ However, this was not the first case Garrett attempted to file in federal court.⁹⁵ In 2014, he brought a § 1983 action challenging his prosecution, arrest, and conviction.⁹⁶ Three years later, Garrett brought a claim against his former defense attorneys and sentencing judge, and in 2019 he alleged a wrongful conviction.⁹⁷ Because of these entirely unrelated claims, which were unable to proceed under *Heck*, the Third Circuit determined that Garrett could not proceed *in forma pauperis*.⁹⁸ This Part details the three-strike rule, its interpretation, and its convergence with FRCP 20 and *Heck*.

⁹¹ Anand, Clark, and Greenfield, *supra* note 79.

⁹² *No Equal Justice: The Prison Litigation Reform Act in the United States*, *supra* note 66.

⁹³ Garrett v. Murphy, 17 F.4th 419, 423 (3rd Cir. 2021).

⁹⁴ *Id.*

⁹⁵ *Id.* at 426.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 433.

A. The Three Strike Provision

Under the PLRA, inmate litigants may file for *in forma pauperis* status if they are unable to pay filing fees.⁹⁹ While this allows them to not pay initial filing fees up front, they are still required to pay the full filing fee through monthly payments determined by monthly income.¹⁰⁰

The PLRA created additional barriers for “frequent filers,” requiring:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.¹⁰¹

In other words, an individual who has brought three unsuccessful claims—whether frivolous, malicious, or failing to state a claim—must pay filing fees upfront unless they are in imminent danger of serious physical injury.¹⁰² The three-strike rule seems to rest on the assumption that the filing fees required in prisoner complaints are not too much to deter a meritorious claim but are enough to deter a meritless claim.¹⁰³ When introducing the bill, Senator Jon Kyl argued that it was proper to require inmate litigants to pay filing fees, stating:

Section 2 will require prisoners to pay a very small share of the large burden they place on the Federal judicial system by paying a small filing fee upon commencement of lawsuit. In doing so, the provision will deter frivolous inmate lawsuits. The modest monetary outlay will force prisoners to think twice about the case and not just file reflexively. Prisoners will have to make the same decision that lawabiding Americans must make: Is the lawsuit worth the price?¹⁰⁴

⁹⁹ The Prison Litigation Reform Act of 1995 (PLRA), Pub. L. No. 104–134, tit. VIII, 110 Stat. 1321 (1996) (codified in part at 28 U.S.C. § 1915) at § 1915(g)

¹⁰⁰ 28 U.S.C. § 1915.

¹⁰¹ 28 U.S.C. § 1915(g).

¹⁰² *Id.*

¹⁰³ 141 CONG. REC. at S7526 (daily ed. May 25, 1995) (statement of Senator Kyl) (“The filing fee is small enough not to deter a prisoner with a meritorious claim, yet large enough to deter frivolous claims and multiple filings.”).

¹⁰⁴ *Id.* (citation omitted).

Kyl suggests that having to pay for lawsuits would prevent prisoners from “filing reflexively” and reduce the burden such individuals place on federal courts.¹⁰⁵ In reality, however, if courts deny plaintiffs *in forma pauperis* status based on three previous dismissals, it is unlikely that the plaintiffs can file a lawsuit, regardless of its potential merits.¹⁰⁶

Courts do not consider the filing fees imposed on prisoner litigants unconstitutional because Congress has historically controlled indigent litigant’s access to the federal judicial system and access to the courts is subject to Congress’s Article III power to limit federal jurisdiction.¹⁰⁷ As asserted by the Fourth Circuit in *Roller v. Gunn*, Congress created the first *in forma pauperis* statute in 1892 to give more Americans access to federal courts, but greater access led to more meritless lawsuits.¹⁰⁸ Congress recognized that the “explosion of [*in forma pauperis*] litigation” taxed the legal system and determined that the escalation of prisoner lawsuits derived from the “lack of economic disincentives to filing meritless cases.”¹⁰⁹ Congress’ power to create Article III courts does not compel it to guarantee free access or unlimited access.¹¹⁰ The Fourth Circuit insisted that if the fee regime under the PLRA was considered unconstitutional, all other court filing fees would also be unconstitutional.¹¹¹

Although the language of the PLRA is simple, its seemingly narrow provisions have wide implications that are unaddressed in its text.¹¹² The three-strike provision does not consider the length of an individual’s incarceration and bars entry without regard for whether litigation was undertaken in good faith, impacting truly frivolous claims to the same degree as claims

¹⁰⁵ *Id.*

¹⁰⁶ Anand, Clark, and Greenfield, *supra* note 79.

¹⁰⁷ *Roller v. Gunn*, 107 F.3d 227, 230 (4th Cir. 1997).

¹⁰⁸ *Id.* at 230.

¹⁰⁹ *Id.* at 230-231.

¹¹⁰ *Id.* at 231.

¹¹¹ *Id.* at 231-232.

¹¹² See Melissa Benerofe, *Collaterally Attacking the Prison Litigation Reform Act’s Application to Meritorious Prisoner Complaint Litigation*, 90 FDMLR 141, 164-165 (2021).

dismissed due to insufficiencies in pleading or procedural mistakes.¹¹³ The Supreme Court held that the provision refers to any dismissal for failure to state a claim whether the case is dismissed with prejudice or without.¹¹⁴

There are also extreme disparities across circuits about what constitutes a strike, especially due to the phrase “fails to state a claim.”¹¹⁵ For example, circuits disagree about whether dismissals based on absolute and qualified immunity, dismissals for failure to exhaust, and mixed dismissals based on a § 1915(g) ground (frivolous, malicious, fails to state a claim) and in part on other grounds qualify as strikes.¹¹⁶ The Third, Fourth, Seventh, Ninth, and District of Columbia Circuits determined that only dismissals based entirely on § 1915(g) grounds constitute strikes.¹¹⁷ Meanwhile, the Sixth and Tenth Circuits allow mixed dismissals, such as those based partly on failure to exhaust and partly on § 1915(g) grounds, to count as strikes.¹¹⁸

Although courts disagree about application, three-strike caselaw demonstrates that the purpose of the PLRA serves as a crucial tool for resolving ambiguity when the statute’s limited text lacks a plain meaning.¹¹⁹ The Third Circuit, for example, recognized that Congress intended the PLRA to conserve the resources of federal courts and defendants.¹²⁰ Because the target of the

¹¹³ *Id.*

¹¹⁴ *Lomax v. Ortiz-Marquez*, 140 S.Ct. 1721, 1723 (2020).

¹¹⁵ Molly Guptill Manning, *Trouble Counting to Three: Circuit Splits and Confusion in Interpreting the Prison Litigation Reform Act’s ‘Three Strikes Rule,’* 28 U.S.C. § 1915(G), 28 CORNELL J.L. & POL’Y 207, 225 (2018); See e.g. *Thomas v. Parker*, 672 F.3d 1182, 1184 (10th Cir. 2012); *Pointer v. Wilkinson*, 502 F.3d 369, 376 (6th Cir. 2007).

¹¹⁶ Manning, *supra* note 115, at 219.

¹¹⁷ Manning, *supra* note 115, at 225; *Washington v. Los Angeles Cty. Sheriff’s Dep’t*, 833 F.3d 1048, 1057 (9th Cir. 2016); *Byrd v. Shannon*, 715 F.3d 117, 124-125 (3rd Cir. 2013); *Turley v. Gaetz*, 625 F.3d 1005, 1013 (7th Cir. 2012); *Tolbert v. Stevenson*, 635 F.3d 646, 652 (4th Cir. 2011); *Thompson v. DEA*, 492 F.3d 428, 432 (D.C. Cir. 2007); See also Samuel B. Reilly, *Where is the Strike Zone? Arguing for a Uniformly Narrow Interpretation of the Prison Litigation Reform Act’s “Three Strikes” Rule*, 70 EMORY L.J. 755 (2021).

¹¹⁸ Manning, *supra* note 115, at 224; *Thomas v. Parker*, 672 F.3d 1182, 1184 (10th Cir. 2012); *Pointer v. Wilkinson*, 502 F.3d 369, 376 (6th Cir. 2007).

¹¹⁹ See, e.g., 715 F.3d at 125; *Thompson v. DEA*, 492 F.3d 428, 437 (D.C. Circuit 2007).

¹²⁰ See 715 F.3d at 125 (“Our Court has not yet stated a preferred approach for deciding when and whether “unclear” dismissals can be counted as strikes for purposes of § 1915(g). In doing so now, we

PLRA was ill-intentioned plaintiffs, however, the D.C. Circuit argued that not all dismissals should be considered strikes, declining to adopt a per se rule designating dismissal for lack of jurisdiction as grounds for a strike.¹²¹ The D.C. Circuit noted, “because understanding federal court jurisdiction is no mean feat even for trained lawyers, creating a rule that mechanically treats dismissals for lack of jurisdiction as strikes would pose a serious risk of penalizing prisoners proceeding in good faith and with legitimate claims.”¹²² In other words, prisoners representing themselves should not be penalized for not knowing certain legal rules.¹²³

B. Rule 20 and the PLRA

Due to the requirements of the three-strike provision, some courts have interpreted the PLRA to further alter the rights of prisoner litigants by preventing them from filing joint suits¹²⁴ or imposing specific fee requirements for joint suits.¹²⁵ Rule 20 of the Federal Rules of Civil Procedure governs the joinder of plaintiffs and defendants in civil litigation.¹²⁶ Under Section 1,

Persons may join in one action as plaintiffs if:

- (A) they assert any right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and
- (B) any question of law or fact common to all plaintiffs will arise in the action.¹²⁷

The Supreme Court applies a liberal standard to the permissive joinder of parties: “Under the Rules, the impulse is toward entertaining the broadest possible scope of action consistent with

are guided by the driving purpose of the PLRA—preserving resources of both the courts and the defendants in prison litigation.”)

¹²¹ 492 F.3d at 437; See Beatrice C. Hancock, Three Strikes and You’re Still In? Interpreting the Three-Strike Provision of the Prison Litigation Reform Act in the Eleventh Circuit, 68 Mercer L. Rev. 1161, 1168 (2017).

¹²² 492 F.3d at 437.

¹²³ See *id.*

¹²⁴ See *Hubbard v. Haley*, 262 F.3d 1194 (11th Cir. 2001).

¹²⁵ See *Hagan v. Rogers*, 570 F.3d 146 (3rd Cir. 2009); *Boriboune v. Berge*, 391 F.3d 852 (7th Cir. 2004).

¹²⁶ FED. R. CIV. P. 20.

¹²⁷ FED. R. CIV. P. 20.

fairness to the parties; joinder of claims, parties and remedies is strongly encouraged.”¹²⁸

Therefore, the default rule for joinder is to allow parties to proceed under one suit.¹²⁹

The PLRA does not address the application of civil procedure to prison litigation, but some circuits assume that the requirements of the PLRA alter the application of Rule 20.¹³⁰ The statute does not discuss whether courts can join *in forma pauperis* prisoner complaints under Rule 20(a)(1) or how such a joinder would affect filing fees and strikes.¹³¹ Therefore, even though joinder is generally liberally allowed, the Eleventh Circuit has determined that indigent prisoner plaintiffs cannot join under Rule 20.¹³² The Third and Seventh Circuits articulate that plaintiffs can be joined so long as they pay full filing fees, while the Sixth Circuit allows both joinder of plaintiffs and the distribution of the filing fee among plaintiffs.¹³³

In *Hubbard v. Haley*, the Eleventh Circuit concluded that the PLRA created a per se bar on the joinder of *in forma pauperis* incarcerated plaintiffs because it viewed the strike scheme as incompatible with joinder.¹³⁴ The purpose of the PLRA was to limit “abusive” prisoner civil rights and conditions of confinement litigation.¹³⁵ The text of the PLRA requires prisoners bringing civil actions *in forma pauperis* to pay a full filing fee, indicating Congress’s focus on each prisoner paying the full amount.¹³⁶ Because such plaintiffs must pay full filing fees, the Eleventh Circuit denied that the plaintiffs could join in a single action.¹³⁷ The Eleventh Circuit’s justification, however, does not explain why this perceived issue could not be rectified by

¹²⁸ *United Mine Workers v. Gibbs*, 383 U.S. 715, 724 (1966).

¹²⁹ *See id.*

¹³⁰ *See Hubbard v. Haley*, 262 F.3d 1194 (11th Cir. 2001); *Hagan v. Rogers*, 570 F.3d 146 (3rd Cir. 2009); *Boriboune v. Berge*, 391 F.3d 852 (7th Cir. 2004).

¹³¹ Erin Kandel, *Joining Behind Bars: Reconciling Federal Rule of Civil Procedure 20(A)(1) with the Prison Litigation Reform Act*, 85 ST. JOHN’S L. REV. 755, 758 (2011).

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Hubbard v. Haley*, 262 F.3d 1194 (11th Cir. 2001).

¹³⁵ *Id.* at 1196.

¹³⁶ *Id.* at 1197-1198.

¹³⁷ *Id.* at 1198.

requiring joined plaintiffs to pay full fees or how this scheme would be preferable to the same plaintiffs filing their cases separately.¹³⁸ Given that the Eleventh Circuit seemed to presume that such cases are generally frivolous, it does not follow that increased individual cases would be desirable.

Meanwhile, the Third and Seventh Circuits allow the joinder of *in forma pauperis* prisoner plaintiffs if the plaintiffs pay full filing fees.¹³⁹ In *Boriboune v. Berge*, the Seventh Circuit acknowledged that joinder could present some issues, such as if “prisoners who have struck out under § 1915(g) and thus must prepay all filing fees unless ‘under imminent danger of serious physical injury’ . . . hope to tag along on a joint complaint.”¹⁴⁰ Even so, the PLRA did not supersede Rule 20; the PLRA does not refer to Rule 20.¹⁴¹ The Seventh Circuit saw no irreconcilable conflict between the two and declined to repeal Rule 20 by implication.¹⁴² The Seventh Circuit noted that joint litigation also presented potential costs to prisoners, as any dismissed claims could potentially count as strikes for every plaintiff.¹⁴³ Recognizing the Eleventh Circuit’s concerns about applying the person-specific fee system of the PLRA to joint litigation, the Seventh Circuit argued that “[t]hese difficulties vanish if we take § 1915(b)(1) at face value and hold that one price of *forma pauperis* status is each prisoner’s responsibility to pay the full fee in installments (or in advance, if § 1915(g) applies), no matter how many other plaintiffs join the complaint.”¹⁴⁴ Likewise, the Third Circuit stated that there was no justification

¹³⁸ The Eleventh Circuit does not discuss the possibility of requiring each joined plaintiff to pay a full filing fee or whether such plaintiffs would then attempt to file individually. The decision rests on Congress’s intent to deter prisoner litigation and its chosen tool of full filing fees. See *id.*

¹³⁹ *Hagan v. Rogers*, 570 F.3d 146 (3rd Cir. 2009); *Boriboune v. Berge*, 391 F.3d 852 (7th Cir. 2004).

¹⁴⁰ 391 F.3d at 854 (citation omitted).

¹⁴¹ 391 F.3d at 854.

¹⁴² 391 F.3d at 854.

¹⁴³ 391 F.3d at 855.

¹⁴⁴ 391 F.3d at 856.

for a categorical bar because the plain language of the statute does not refer to Rule 20, so there is no reason to disregard the Rule's unambiguous language.¹⁴⁵

The Sixth Circuit authorized both joinder of plaintiffs and collective filing fee for such plaintiffs.¹⁴⁶ It articulated that because the statute does not address the apportionment of fees in cases with multiple plaintiffs, "each prisoner should be proportionally liable for any fees and costs that may be assessed."¹⁴⁷ Arguably, this approach is most consistent with the PLRA's statutory scheme, the statute's text, statutory interpretation of both the PLRA and Rule 20, legislative history, and, most significantly, the rights at stake in this determination.¹⁴⁸

C. Heck v. Humphrey and Interpreting the Three Strike Provision

The arguments justifying the PLRA centered around the idea that prisoner complaints were inherently frivolous.¹⁴⁹ Prisoners liked filing complaints while in prison because they had nothing better to do.¹⁵⁰ However, one category of claims now considered a strike by some circuits under the PLRA is not intentionally frivolous: *Heck*-barred claims.¹⁵¹

The purpose of the three-strike provision was to prevent litigants from filing more lawsuits after their "meritless" claims were dismissed, but the Supreme Court already required dismissal of a certain type of claim under *Heck v. Humphrey*.¹⁵² Roy Heck was convicted of voluntary manslaughter and attempted to recover damages under § 1983 for an "unlawful,

¹⁴⁵ 570 F.3d at 152.

¹⁴⁶ *In re Prison Litigation Reform Act*, 105 F.3d 1131 (6th Circuit, 1997).

¹⁴⁷ 105 F.3d at 1137-1138.

¹⁴⁸ Mani S. Walia, *The PLRA and Rule 20 in Harmony: Apportioning a Single Fee for Multiple Indigent Prisoners When They Proceed Jointly*, 58 DRAKE L. REV. 541, 544-545 (2010).

¹⁴⁹ See 141 Cong. Rec. at S7526 (May 25, 1995) (statement of Senator Kyl) ("Most inmate lawsuits are meritless. Courts have complained about the abundance of such cases. Filing frivolous civil rights lawsuits has become a recreational activity for long-term residents of our prisons.").

¹⁵⁰ See *Id.*

¹⁵¹ The Ninth Circuit defines frivolous cases as having no defensible basis in fact. *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005). Courts dismiss *Heck*-barred cases because of their relationship to criminal convictions, not because the facts of the case have no defensible basis. 512 U.S. at 478-479.

¹⁵² *Heck*, 512 U.S. at 478-479.

unreasonable, and arbitrary investigation” with his criminal conviction still pending.¹⁵³ To recover damages for a § 1983 case, the Supreme Court ruled that plaintiffs must prove that their conviction or sentence was reversed on direct appeal, otherwise expunged, or challenged by a federal court issuing a writ of habeas corpus.¹⁵⁴ The Court intended to prevent collateral attacks on criminal convictions—its new rule required prior criminal proceedings to end “in favor of the accused” so that no plaintiff could prevail in a tort suit while still being convicted of the underlying criminal prosecution.¹⁵⁵ This upheld the “strong judicial policy” against having multiple ongoing cases arising out of the same transaction.¹⁵⁶

Because courts must dismiss civil lawsuits improperly challenging a criminal conviction under *Heck*, courts must determine whether such dismissals qualify as strikes under the PLRA.¹⁵⁷ The question has serious implications for who can bring prisoner suits, and circuits disagree about whether these cases constitute “failure to state a claim” and therefore warrant a strike.¹⁵⁸ While the Seventh and Ninth Circuits view failure to state a claim as a judgment on the content of pleadings, the Third Circuit interprets the language liberally, and perhaps more literally, as a determination about whether relief can be granted for the claim *in the moment*.¹⁵⁹ Accordingly, the Third Circuit automatically awards strikes based on *Heck* dismissals, but the Seventh and Ninth Circuits do not.¹⁶⁰

¹⁵³ 512 U.S. at 478-479.

¹⁵⁴ 512 U.S. at 478-479.

¹⁵⁵ 512 U.S. at 484.

¹⁵⁶ 512 U.S. at 484.

¹⁵⁷ See 17 F.4th at 423-424.

¹⁵⁸ Compare *Washington v. Los Angeles County Sheriff's Dept.*, 833 F.3d 1048 (9th Cir. 2016); *Polzin v. Gage*, 636 F.3d 834, 837 (7th Cir. 2011); *O'Brien v. Town of Bellingham*, 943 F.3d 514, 529 (1st Cir. 2019); *Harrigan v. Metro Dade Police Dep't Station #4*, 977 F.3d 1185, 1191 n.4 (11th Cir. 2020) with *Hastings v. City of Fort Myers*, 2021 U.S. App. LEXIS 30023 No. 21-11220-F (11th Cir. 2021); *Garrett v. Murphy*, 17 F.4th 419, 423 (3rd Cir. 2021).

¹⁵⁹ *Id.*

¹⁶⁰ Although the First and Eleventh Circuits have also addressed this question, the circuits have not fleshed out their reasoning. The First asserts that the question is a jurisdictional issue. *O'Brien v. Town of Bellingham*, 943 F.3d 514, 529 (1st Cir. 2019) (holding that the excessive force claim the plaintiff raised

Because the Seventh and Ninth Circuits determine that plaintiffs fail to state a claim when the plaintiffs fail to meet pleading requirements, the circuits do not designate a *Heck*-barred claim as a pleading failure.¹⁶¹ Instead, the Seventh and Ninth Circuits characterize the *Heck* requirement as an affirmative defense.¹⁶² Therefore, in the Ninth Circuit, “a dismissal may constitute a PLRA strike for failure to state a claim when *Heck*’s bar to relief is obvious from the face of the complaint, and the entirety of the complaint is dismissed for a qualifying reason under the PLRA,” but *Heck* dismissals cannot be considered categorically frivolous.¹⁶³ Plaintiff may create a timing issue by presenting meritorious claims before successfully challenging criminal convictions, and such claims cannot be categorically considered dismissals for failure to state a claim under FRCP 12(b)(6).¹⁶⁴ Although *Heck* requires favorable termination, that is not a necessary element to a civil damages claim under § 1983 in the statute’s text, so failing to plead favorable termination is not failure to state a claim.¹⁶⁵ Just as prisoner plaintiffs are not required to prove administrative exhaustion in their pleading, but defendants can raise a plaintiff’s failure to exhaust as an affirmative defense, *Heck* compliance is an affirmative defense rather than a pleading requirement.¹⁶⁶ A dismissal under *Heck* does not determine the underlying merits of the

related to his arrest was interrelated to his criminal convictions and therefore barred by *Heck*). The Eleventh Circuit also initially held that *Heck* was a jurisdictional issue, later argued “The Supreme Court’s own language suggests that *Heck* deprives the plaintiff of a cause of action—not that it deprives a court of jurisdiction,” and then declared the question “open.” *Compare* *Harrigan v. Metro Dade Police Dep’t Station #4*, 977 F.3d 1185, 1191 n.4 (11th Cir. 2020) *with* *Teagan v. City of McDonough*, 949 F.3d 670, 677 (11th Cir. 2020); *Hastings v. City of Fort Myers*, 2021 U.S. App. LEXIS 30023 No. 21-11220-F (11th Cir. 2021).

¹⁶¹ See *Washington v. Los Angeles County Sheriff’s Dept.*, 833 F.3d 1048 (9th Cir. 2016); *Polzin v. Gage*, 636 F.3d 834, 837 (7th Cir. 2011).

¹⁶² See *Washington v. Los Angeles County Sheriff’s Dept.*, 833 F.3d 1048 (9th Cir. 2016); *Polzin v. Gage*, 636 F.3d 834, 837 (7th Cir. 2011).

¹⁶³ 833 F.3d at 1055.

¹⁶⁴ 833 F.3d at 1056.

¹⁶⁵ 833 F.3d at 1056.

¹⁶⁶ 833 F.3d at 1056.

case.¹⁶⁷ Meanwhile, the Seventh Circuit held that rather than determining whether *Heck* applies, district courts should address the merits of the case.¹⁶⁸

Unlike the Seventh and Ninth Circuits, the Third Circuit recently held in *Garrett v. Murphy* that a plaintiff does not fail to state a claim only by not meeting pleading requirements.¹⁶⁹ Courts that dismiss suits for failing to meet the favorable termination requirement of *Heck* dismiss due to a lack of a valid “cause of action” under § 1983; “claim” under the PLRA is synonymous with “cause of action.”¹⁷⁰ The Third Circuit noted that the tort of malicious prosecution, the basis for the Supreme Court’s holding in *Heck*, requires favorable termination as an element of the claim.¹⁷¹ Similarly, therefore, favorable termination is “an implied element of a [§ 1983] claim,” so a dismissal for failure to state a claim constitutes a strike under the PLRA.¹⁷² Furthermore, the Third Circuit distinguished *Heck*-barred claims from failure to state a claim under 12(b)(6) because its precept required court to dismiss *Heck*-barred claims *sua sponte* for lack of subject-matter jurisdiction at any point during litigation.¹⁷³ Moreover, the court rejected the affirmative defense approach adopted by the Ninth Circuit by asserting that favorable termination is not an exhaustion defense; the Supreme Court did not require defendants to prove the validity of a conviction in their pleadings in *Heck*.¹⁷⁴

¹⁶⁷ 833 F.3d at 1056.

¹⁶⁸ *Polzin v. Gage*, 636 F.3d 834, 837 (7th Cir. 2011).

¹⁶⁹ 17 F.4th at 427.

¹⁷⁰ 17 F.4th at 427.

¹⁷¹ 17 F.4th at 428.

¹⁷² 17 F.4th at 428-429.

¹⁷³ 17 F.4th at 428.

¹⁷⁴ 17 F.4th at 429 (citing 512 U.S. at 483-487).

Applicant Details

First Name	Laila
Last Name	Ujayli
Citizenship Status	U. S. Citizen
Email Address	lujayli@jd24.law.harvard.edu
Address	<div> Address Street 1654 Massachussets Ave, Unit 62 City Cambridge State/Territory Massachusetts Zip 02138 Country United States </div>
Contact Phone Number	6147079157

Applicant Education

BA/BS From	Ohio State University-Columbus
Date of BA/BS	May 2018
JD/LLB From	Harvard Law School
	https://hls.harvard.edu/dept/ocs/
Date of JD/LLB	May 25, 2024
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Harvard Civil Rights-Civil Liberties Law Review
Moot Court Experience	Yes
Moot Court Name(s)	Upper Level Ames Moot Court Competition

Bar Admission**Prior Judicial Experience**

Judicial Internships/
Externships **No**
Post-graduate Judicial Law
Clerk **No**

Specialized Work Experience

Recommenders

Fallon, Richard
rfallon@law.harvard.edu
617-495-3215
Modirzadeh, Naz
nmodirzadeh@law.harvard.edu
617-495-1066
Jenkins, Alan
ajenkins@law.harvard.edu
646-312-9278
Stearns, Ian
ian.stearns@usdoj.gov
(617) 748-3208

This applicant has certified that all data entered in this profile and any application documents are true and correct.

LAILA UJAYLI

lujayli@jd24.law.harvard.edu | (614) 707-9157 | 1654 Massachusetts Ave Unit 62, Cambridge, MA 02138

June 12, 2023

The Honorable Jamar K. Walker
District Judge
United States District Court for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to apply for the next available clerkship in your chambers beginning in 2024. I am a rising third-year student at Harvard Law School, where I am an executive managing editor of the *Harvard Civil Rights-Civil Liberties Law Review* and co-president of Harvard's Middle Eastern and North African Law Students Association. I would be especially excited to clerk on the District Court for the Eastern District of Virginia given the speed and intensity of the docket.

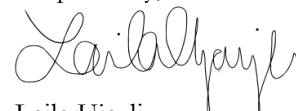
Enclosed please find my resume, writing sample, law school transcript, undergraduate transcript, and graduate transcripts corresponding with my master's degrees in Film Aesthetics and Public Policy from the University of Oxford, where I studied as a Rhodes Scholar. The following people will be submitting letters of recommendation separately:

- Prof. Richard Fallon; Harvard Law School; rfallon@law.harvard.edu; (617) 495-3215
- Prof. Alan Jenkins; Harvard Law School; ajenkins@law.harvard.edu; (617) 998-1741
- Prof. Naz Modirzadeh; Harvard Law School; nmodirzadeh@law.harvard.edu; (617) 495-1066
- Ian Stearns; Assistant U.S. Attorney; ian.stearns@usdoj.gov; (617) 748-3208

While in law school, I have pursued hands-on litigation experience in both civil and criminal law – providing timely legal research and analysis at D.C.-area law firms both summers and at the Boston United States Attorney's Office during the spring of my second year. I have further cultivated my research and writing skills through journal work and an independent writing project. I would be honored to contribute those skills to the important work of your chambers – and eager to learn from you to further develop them.

I am happy to provide any additional information that would be helpful to you. Thank you for your time and consideration.

Respectfully,



Laila Ujayli

LAILA UJAYLI

lujayli@jd24.law.harvard.edu | (617) 707-9157 | 1654 Massachusetts Ave Unit 62, Cambridge, MA 02138

EDUCATION

HARVARD LAW SCHOOL, Cambridge, MA

J.D. Candidate, May 2024

Honors: Paul and Daisy Soros Fellowship for New Americans

Activities: *Harvard Civil Rights-Civil Liberties Law Review*, Executive Managing Editor of Outside Articles
Harvard Middle Eastern and North African Law Students Association, Co-President
Harvard International Human Rights Clinic, Fall 2022 – Winter 2023
Harvard Upper-Level Ames Moot Court Competition, Qualifying Round
The Appellate Project, Class of 2022-2023

UNIVERSITY OF OXFORD, Oxford, UK

Master of Public Policy with Distinction, October 2021

Master of Studies with Distinction in Film Aesthetics, August 2020

Honors: Rhodes Scholar

THE OHIO STATE UNIVERSITY, Columbus, OH

B.S. *summa cum laude* and Phi Beta Kappa with Honors in International Relations & English, May 2018

EXPERIENCE

UNITED STATES DEPARTMENT OF STATE – OFFICE OF THE LEGAL ADVISER, Washington, D.C.

Extern

Winter 2024

COVINGTON & BURLING LLP, Washington, D.C.

Summer Associate

Summer 2023

Draft research memo offering legal support to exclude timing advance data and geofence evidence for a criminal defense matter. Profile Eleventh Circuit judges and relevant decisions for an oralist for an upcoming en banc hearing. Prepare research memo assessing the mechanisms for determining a living wage for a dispute at the OECD's National Contact Point.

UNITED STATES ATTORNEY'S OFFICE – DISTRICT OF MASSACHUSETTS, Boston, MA

Clinical Intern, Securities, Financial, and Cyber Fraud Unit

Spring 2023

Provided timely research to trial team during prosecution of Russian businessman Vladislav Klyushin for his involvement in a \$90 million securities fraud & hacking scheme. Prepared research memos on establishing venue in interstate conspiracies, restorative justice principles at sentencing, legislative history of stalking laws, and more. Drafted portions of sentencing memo. Viewed First Circuit oral arguments.

AKIN GUMP STRAUSS HAUER & FELD LLP, Washington, D.C.

Strauss Diversity and Inclusion Scholar

Summer 2022

Researched questions of First Amendment law for client's amicus brief on behalf of respondents in *303 Creative, LLC v Elenis*. Prepared presentation advising European maritime client on Russia sanctions compliance. Advised client on obtaining a license from the Office of Foreign Assets Control. Conducted interviews and drafted declarations in support of asylum applications.

INKSTICK MEDIA, Washington, D.C. (remote)

Associate Editor

November 2020 – February 2022

Investigated and edited scripts for stories on foreign policy and national security for podcast *Things That Go Boom*. Reviewed submissions, edited pieces, and provided fact-checking and research support for online outlet. Solicited commissions from new contributors, particularly underrepresented voices, to broaden readership and bring fresh insights into national security debates.

UN UNIVERSITY CENTER FOR POLICY RESEARCH, New York, NY (remote)

Research Assistant

Summer 2021

Analyzed language and designation criteria of over 100 UN sanctions resolutions for a project examining the impact of UN sanctions on humanitarian action. Organized and conducted webinar for humanitarian actors interviewed for the project and categorized responses. Utilized findings to draft a case study on the impact of UN sanctions on humanitarian action in Somalia.

WIN WITHOUT WAR, Washington, D.C.

Herbert Scoville Jr. Peace Fellow

September 2018 – June 2019

Drafted report analyzing the federal security budget and recommending actionable steps to direct spending towards conflict prevention and diplomatic engagement. Created policy briefs and drafted hearing questions for members of Congress on a range of foreign policy issues.

PERSONAL

Screenwriter selected as a 2021 CineStory Foundation Feature Fellow and featured on Coverfly and The Tracking Board's 2021 Next List of the strongest emerging writers across film and television. Serve on the Board of Directors for the Herbert Scoville Jr. Peace Fellowship.

Harvard Law School

Date of Issue: June 7, 2023

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Record of: Laila Ujayli

Current Program Status: JD Candidate

Pro Bono Requirement Complete

JD Program				8021	International Human Rights Clinic	H	3
Fall 2021 Term: September 01 - December 03					Farbstein, Susan		
1000	Civil Procedure 1	P	4	2212	Public International Law	H	4
	Rubenstein, William				Modirzadeh, Naz		
				Fall 2022 Total Credits:			13
1001	Contracts 1	H	4	Fall-Spring 2022 Term: September 01 - May 31			
	Okediji, Ruth						
1006	First Year Legal Research and Writing 1B	H	2	2103	Government Lawyer	H	2
	Havasy, Christopher				Whiting, Alex		
1003	Legislation and Regulation 1	P	4	7002W	Independent Writing	H	2
	Tarullo, Daniel				Modirzadeh, Naz		
1004	Property 1	P	4	3500	Writing Group: Public International Law; International Law and	CR	1
	Mann, Bruce				Armed Conflict; International Law and War		
Fall 2021 Total Credits:					Modirzadeh, Naz		
					Fall-Spring 2022 Total Credits:		
Winter 2022 Term: January 04 - January 21							5
1052	Lawyering for Justice in the United States	CR	2	Winter 2023 Term: January 01 - January 31			
	Gregory, Michael			8021C	International Human Rights Clinic - Advanced Clinical	H*	2
Winter 2022 Total Credits:					Farbstein, Susan		
					* Dean's Scholar Prize		
Spring 2022 Term: February 01 - May 13					Winter 2023 Total Credits:		
1024	Constitutional Law 1	H	4				2
	Eidelson, Benjamin			Spring 2023 Term: February 01 - May 31			
1002	Criminal Law 1	H	4	2079	Evidence	P	3
	Yang, Crystal				Clary, Richard		
1006	First Year Legal Research and Writing 1B	H	2	8017	Government Lawyer: United States Attorney Clinic	H	4
	Havasy, Christopher				Whiting, Alex		
3011	Framing, Narrative, and Supreme Court Jurisprudence	H	2	2051	Race and the Law	H	4
	Jenkins, Alan				Jenkins, Alan		
1005	Torts 1	H	4	Spring 2023 Total Credits:			11
	Gersen, Jacob			Total 2022-2023 Credits:			31
Spring 2022 Total Credits:							
Total 2021-2022 Credits:							
				2050	Criminal Procedure: Investigations	~	4
Fall 2022 Term: September 01 - December 31					Whiting, Alex		
2035	Constitutional Law: First Amendment	P	4	2973	Foundations of International Arbitration: Theory and Practice	~	2
	Fallon, Richard				Sobota, Luke		
2510	Human Rights Advocacy	H*	2	2517	Islamic Law and Human Rights	~	1
	Farbstein, Susan				Waheedi, Salma		
	* Dean's Scholar Prize			2169	Legal Profession: Collaborative Law	~	3
					Hoffman, David		

continued on next page

Harvard Law School

Record of: Laila Ujayli

Date of Issue: June 7, 2023

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3108	The Supreme Court as a Lawmaking Institution	~	2
	Fallon, Richard		
		Fall 2023 Total Credits:	12
	Spring 2024 Term: January 22 - May 10		
2086	Federal Courts and the Federal System	~	5
	Fallon, Richard		
		Spring 2024 Total Credits:	5
		Total 2023-2024 Credits:	17
		Total JD Program Credits:	84
End of official record			

HARVARD LAW SCHOOL
 Office of the Registrar
 1585 Massachusetts Avenue
 Cambridge, Massachusetts 02138
 (617) 495-4612
www.law.harvard.edu
registrar@law.harvard.edu

Transcript questions should be referred to the Registrar.

~~~~~  
**In accordance with the Family Educational Rights and Privacy Act of 1974, information from this transcript may not be released to a third party without the written consent of the current or former student.**  
 ~~~~~

A student is in good academic standing unless otherwise indicated.

Accreditation

Harvard Law School is accredited by the American Bar Association and has been accredited continuously since 1923.

Degrees Offered

J.D. (Juris Doctor)
 LL.M. (Master of Laws)
 S.J.D. (Doctor of Juridical Science)

Current Grading System

Fall 2008 – Present: Honors (H), Pass (P), Low Pass (LP), Fail (F), Withdrawn (WD), Credit (CR), Extension (EXT)

All reading groups and independent clinicals, and a few specially approved courses, are graded on a Credit/Fail basis. All work done at foreign institutions as part of the Law School's study abroad programs is reflected on the transcript on a Credit/Fail basis. Courses taken through cross-registration with other Harvard schools, MIT, or Tufts Fletcher School of Law and Diplomacy are graded using the grade scale of the visited school.

Dean's Scholar Prize (*): Awarded for extraordinary work to the top students in classes with law student enrollment of seven or more.

Rules for Determining Honors for the JD Program

Latin honors are not awarded in connection with the LL.M. and S.J.D. degrees.

May 2011 - Present

<i>Summa cum laude</i>	To a student who achieves a prescribed average as described in the <u>Handbook of Academic Policies</u> or to the top student in the class
<i>Magna cum laude</i>	Next 10% of the total class following <i>summa</i> recipient(s)
<i>Cum laude</i>	Next 30% of the total class following <i>summa</i> and <i>magna</i> recipients

All graduates who are tied at the margin of a required percentage for honors will be deemed to have achieved the required percentage. Those who graduate in November or March will be granted honors to the extent that students with the same averages received honors the previous May.

Prior Grading Systems

Prior to 1969: 80 and above (A+), 77-79 (A), 74-76 (A-), 71-73 (B+), 68-70 (B), 65-67 (B-), 60-64 (C), 55-59 (D), below 55 (F)

1969 to Spring 2009: A+ (8), A (7), A- (6), B+ (5), B (4), B- (3), C (2), D (1), F (0) and P (Pass) in Pass/Fail classes

Prior Ranking System and Rules for Determining Honors for the JD Program

Latin honors are not awarded in connection with the LL.M. and S.J.D. degrees.

Prior to 1961, Harvard Law School ranked its students on the basis of their respective averages. From 1961 through 1967, ranking was given only to those students who attained an average of 72 or better for honors purposes. Since 1967, Harvard Law School does not rank students.

<u>1969 to June 1998</u>	<u>General Average</u>
<i>Summa cum laude</i>	7.20 and above
<i>Magna cum laude</i>	5.80 to 7.199
<i>Cum laude</i>	4.85 to 5.799

June 1999 to May 2010

<i>Summa cum laude</i>	General Average of 7.20 and above (exception: <i>summa cum laude</i> for Class of 2010 awarded to top 1% of class)
<i>Magna cum laude</i>	Next 10% of the total class following <i>summa</i> recipients
<i>Cum laude</i>	Next 30% of the total class following <i>summa</i> and <i>magna</i> recipients

Prior Degrees and Certificates

LL.B. (Bachelor of Laws) awarded prior to 1969.

The I.T.P. Certificate (not a degree) was awarded for successful completion of the one-year International Tax Program (discontinued in 2004).

Adrienne Bricker
Adrienne Bricker
University Registrar

THE OHIO STATE UNIVERSITY TRANSCRIPT



Name: Laila Ujayli
Student: 200398392
DOB: 08/30/****
Print Date: 03/06/2023
Page 1 of 2
OSUOF

LAILA UJAYLI
LUJAYLI@JD24.LAW.HARVARD.EDU

Institutions Attended

Columbus School For Girls

OSU Degrees Awarded

Degree: Bachelor of Science
Confer Date: May 6, 2018
Degree Honors: Summa Cum Laude
Degree Honors: with Honors in the Arts and Sciences
Degree Honors: with Honors Research Distinction in English
Plan: International Studies Major
Sub-Plan: International Relations and Diplomacy
Plan: English Secondary Major
Sub-Plan: Writing, Rhetoric, and Literacy
Plan: Screenwriting Minor
Plan: Business Minor

Beginning of Undergraduate Record

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major

Course	Description	Attempted	Earned	Grade	Points
ARTSSCI	1100.01H ASC College Survey	1.00	1.00	S	0.000
ENGLISH	2201H Brit Lit: Med-1800	3.00	3.00	A	12.000
ENGLISH	2367.01H Hnrs US Exper:Lang	3.00	3.00	A-	11.100
INTSTDS	2800 Intro to Peace St	3.00	3.00	A	12.000
SPANISH	2200H Honors Intermediat	4.00	4.00	A	16.000

Test Credits Applied Toward Arts and Sciences

Course	Description	Attempted	Earned	Grade	Points
BIOLOGY	1113 Energy Transfr&Dvl	0.00	4.00	EM	0.000
ENGLISH	1110.01 First-Yr Engr Comp	0.00	3.00	EM	0.000
ENGLISH	1167H 1st Yr Writing Sem	0.00	3.00	EM	0.000
HISTORY	1681 World Hist to 1500	0.00	3.00	EM	0.000
HISTORY	1682 Wild Hist 1500-Pres	0.00	3.00	EM	0.000
MATH	1151 Calculus 1	0.00	5.00	EM	0.000
POLITSC	1100 Intro Amer Politics	0.00	3.00	EM	0.000
POLITSC	1200 Intro Comp Politics	0.00	3.00	EM	0.000
PSYCH	1100 Intro Psychology	0.00	3.00	EM	0.000
SPANISH	1101.01 Spanish 1	0.00	4.00	EM	0.000
SPANISH	1102.01 Spanish 2	0.00	4.00	EM	0.000
Test Trans GPA:	0.000	Transfer Totals:	0.00	38.00	0.000

	GPA Hours	Earned	Points
Term GPA	3.930	Term Totals	13.00
Cum GPA	3.930	Cum Totals	52.00
			51.100

Dean's List

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Plan: Business Minor
Plan: Spanish Minor

Course	Description	Attempted	Earned	Grade	Points
EARTHSC	1121H Hnrs Dynamic Earth	4.00	4.00	A	16.000
ECON	2001.03H Prin Microeconomic	3.00	3.00	A	12.000
ENGLISH	2279 Wrtg,Rhet,Literacy	3.00	3.00	A	12.000
INTSTDS	4802 Prob & Prosp Peace	3.00	3.00	A	12.000
SPANISH	3404 Pronunciation	3.00	3.00	A	12.000

	GPA Hours	Earned	Points
Term GPA	4.000	Term Totals	16.00
Cum GPA	3.968	Cum Totals	68.00
			115.100

Dean's List

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Plan: Business Minor
Plan: Spanish Minor

Course	Description	Attempted	Earned	Grade	Points
ANTHROP	2200H Intro Phys Anthrop	4.00	4.00	A	16.000
CSE	1110 Intr Comptg Techn	2.00	2.00	A	8.000
ENGLISH	4569 Digital Media	3.00	3.00	A	12.000
ENGLISH	4590.08H US & Colonial Lit	3.00	3.00	A	12.000
ENGLISH	5191 Intrnshp Engrl Stds	3.00	3.00	S	0.000
INTSTDS	3450 HumRts	3.00	3.00	A	12.000

	GPA Hours	Earned	Points
Term GPA	4.000	Term Totals	15.00
Cum GPA	3.979	Cum Totals	44.00
			86.00
			175.100

Dean's List

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Plan: Business Minor

Course	Description	Attempted	Earned	Grade	Points
BUSMGT	3130 Foundation Ops Mgt	3.00	3.00	A	12.000
ENGLISH	4590.06H The Modern Period	3.00	3.00	A	12.000
ENGLISH	4592 Spec Tpcs Worn Lit	3.00	3.00	A	12.000
POLITSC	1300 Global Politics	3.00	3.00	A	12.000
POLITSC	4331 UN System	3.00	3.00	A	12.000
STAT	2450 Intro Stat Anl 1	3.00	3.00	A-	11.100

	GPA Hours	Earned	Points
Term GPA	3.950	Term Totals	18.00
Cum GPA	3.970	Cum Totals	62.00
			104.00
			246.200

Dean's List

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Subplan: Writing, Rhetoric, and Literacy Specialization
Plan: General Business Minor

Course	Description	Attempted	Earned	Grade	Points
LAW	5796 Anglo-Am Legal Sys	6.00	6.00	A	24.000

	GPA Hours	Earned	Points
Term GPA	4.000	Term Totals	6.00
Cum GPA	3.973	Cum Totals	68.00
			110.00
			270.200

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Subplan: Writing, Rhetoric, and Literacy Specialization
Plan: General Business Minor

Course	Description	Attempted	Earned	Grade	Points
BUSMHR	3100 Frndt of Mgt & HR	3.00	3.00	A	12.000
ENGLISH	3304 Business Writing	3.00	3.00	A	12.000
FILMSTD	4800 St Dev Film TV	3.00	3.00	A	12.000
HISTORY	3505 US Diplo Mid East	3.00	3.00	A-	11.100

Adrienne Bricker
Adrienne Bricker
University Registrar

THE OHIO STATE UNIVERSITY TRANSCRIPT



Name: Laila Ujayli
Student: 200398392
DOB: 08/30/****
Print Date: 03/06/2023
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OSUOF

INTSTDS	4800	Cultural Diplomacy	3.00	3.00	A	12.000	Undergraduate Career Totals					
							Cum GPA:	3.978	Cum Totals	125.00	171.00	497.300
									Completed Milestones			
Term GPA	3.940	Term Totals	<u>GPA Hours</u>	<u>Earned</u>	<u>Points</u>	Ohio Transfer Module						
			15.00	15.00	59.100							
Cum GPA	3.967	Cum Totals	83.00	125.00	329.300				***End of Undergraduate Transcript***			

Dean's List

Spring 2017 Semester

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Subplan: Writing, Rhetoric, and Literacy Specialization
Plan: General Business Minor

Course	Description	Attempted	Earned	Grade	Points
BUSML 3150	Fndtns of Mktg	3.00	3.00	A	12.000
ENGLISH 4573.02	Rhet & Soc Action	3.00	3.00	A	12.000
ENGLISH 4999H	Honors Research	3.00	3.00	S	0.000
FILMSTD 4890	Adv Screenwriting	3.00	3.00	A	12.000
GEOG 3701	Making Mdrn Wrld	3.00	3.00	A	12.000

Term GPA	4.000	Term Totals	GPA Hours	Earned	Points
Cum GPA	3.971	Cum Totals	12.00	15.00	48.000
			95.00	140.00	377.300

Dean's List

Autumn 2017 Semester

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Subplan: Writing, Rhetoric, and Literacy Specialization
Plan: Business Minor
Plan: Screenwriting Minor

Course	Description	Attempted	Earned	Grade	Points
ACCTMIS 2000	Foundation of Acct	3.00	3.00	A	12.000
ENGLISH 3271	Struct English Lang	3.00	3.00	A	12.000
ENGLISH 4559	Intro Narr Theory	3.00	3.00	A	12.000
ENGLISH 4591.02H	Sp Topics Rhetoric	3.00	3.00	A	12.000
ENGLISH 4999H	Honors Research	1.00	1.00	S	0.000
THEATRE 5331	Screenwriting	3.00	3.00	A	12.000

Term GPA	4.000	Term Totals	GPA Hours	Earned	Points
Cum GPA	3.975	Cum Totals	15.00	16.00	60.000
			110.00	156.00	437.300

Dean's List

Spring 2018 Semester

Program: Arts and Sciences
Plan: International Studies Major
Subplan: International Relations and Diplomacy Specialization
Plan: English Secondary Major
Subplan: Writing, Rhetoric, and Literacy Specialization
Plan: Business Minor
Plan: Screenwriting Minor

Course	Description	Attempted	Earned	Grade	Points
BUSFIN 3120	Intro to Finance	3.00	3.00	A	12.000
ENGLISH 4597.04H	Intrdiscp App Narr	3.00	3.00	A	12.000
FILMSTD 4640	Cinema History	3.00	3.00	A	12.000
FILMSTD 4881	ScreenwritingTV	3.00	3.00	A	12.000
HISTORY 3375	Mongol Empire	3.00	3.00	A	12.000

Term GPA	4.000	Term Totals	GPA Hours	Earned	Points
Cum GPA	3.978	Cum Totals	15.00	15.00	60.000
			125.00	171.00	497.300

Dean's List



OFFICE OF THE UNIVERSITY REGISTRAR
STUDENT ACADEMIC SERVICES BUILDING, 5TH FLOOR
281 WEST LANE AVENUE
COLUMBUS, OH 43210-1132
TELEPHONE: 614-292-9330
EMAIL: REGISTRAR@OSU.EDU

TRANSCRIPT KEY**RELEASE OF INFORMATION**

This transcript cannot be released to another person, agency or organization except to officials internal to your own organization or agency who have a reasonable business use for the information. Release to other parties requires written consent of the student.

ACCREDITATION

The Ohio State University (Columbus, Lima, Mansfield, Marion, Newark and the Agricultural Technical Institute, Wooster, Ohio) is accredited by the Higher Learning Commission as a degree-granting institution at the associate, baccalaureate, masters, professional and doctoral levels.

DETAILED TRANSCRIPT KEY

For a more detailed version of this transcript key including information on good standing, probation, dismissal and the definition of enrollment status, please visit <https://registrar.osu.edu/alumni/transcriptkey.asp>

GRADING SYSTEM

A	• Excellent.....4.0 Pts	I	• Incomplete.....0 Pts
A-	• Excellent.....3.7 Pts	IP	• In Progress.....0 Pts
B+	• Above Average.....3.3 Pts	IX	• Extension of Incomplete.....0 Pts
B	• Above Average.....3.0 Pts	P	• Progress.....0 Pts
B-	• Above Average.....2.7 Pts	PA	• Pass.....0 Pts
C+	• Average.....2.3 Pts	PE	• Emergency Pass.....0 Pts
C	• Average.....2.0 Pts	NP	• Non-pass.....0 Pts
C-	• Average.....1.7 Pts	R	• Registered to Audit.....0 Pts
D+	• Poor.....1.3 Pts	S	• Satisfactory.....0 Pts
D	• Poor.....1.0 Pts	U	• Unsatisfactory.....0 Pts
E	• Failure.....0 Pts	W	• Withdrew.....0 Pts
EM	• Examination Credit.....0 Pts	NG	• Grade unreported by instructor.....0 Pts
EN	• Failure-Non Attendance.....0 Pts	NEN	• EN grade for PA/NP course.....0 Pts
K	• Transferred Credit.....0 Pts	UEN	• EN grade for S/U course.....0 Pts

notation denotes a course involved in the forgiveness or substitution of grades - see Recalculation of Grades

SPECIAL COURSE NUMBER NOTATIONS

E suffix	Honors embedded course
H suffix	Honors course or honors version of a course
S suffix	Service Learning course
T suffix	Technical course (part of a two year technical program)

RECALCULATION OF GRADES

FORGIVENESS OR SUBSTITUTION OF GRADES: Students may petition their enrollment unit to repeat a course, and after completing the course the second time, have the original course credit and grade excluded from the calculation of the student's cumulative point-hour ratio, but remain on the student's official permanent record. The course or courses being substituted or repeated will bear the symbol "#" to the left of the grade.

PERMITTED TO RESTART GPA or FRESH START: An undergraduate student who enrolls in the university after an absence of five or more years may petition to have their GPA recalculated. If the petition is approved, the student resumes their academic program with no cumulative GPA. All courses taken will remain on the permanent record.

This Academic Transcript from The Ohio State University located in Columbus, OH is being provided to you by Parchment, Inc. Under provisions of, and subject to, the Family Educational Rights and Privacy Act of 1974, Parchment, Inc. is acting on behalf of The Ohio State University in facilitating the delivery of academic transcripts from The Ohio State University to other colleges, universities and third parties.

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CALENDAR

- The semester system replaced the quarter system for the university in summer 2012
- The semester system replaced the quarter system for the College of Law in autumn 1984

UNIVERSITY CLASS RANKING SYSTEM

Student rank in all undergraduate colleges is based on total credit hours completed and recorded. Graduate students are not ranked. Professional students are ranked according to progress within their curriculum.

Semester Calendar			Quarter Calendar		
Rank	Earned Hours		Rank	Earned Hours	
Freshman	0	through 29	Freshman	0	through 44
Sophomore	30	through 59	Sophomore	45	through 89
Junior	60	through 89	Junior	90	through 134
Senior	90	and up	Senior	135	and up

COURSE NUMBERING SYSTEM**SEMESTER CALENDAR**

1000-1099	UG (Undergraduate) - Non Credit Courses Non-credit courses for orientation, remedial, or other non-college-level experiences. These are courses in addition to a program's graduation requirements.
1100-1999	UG - Introductory Level Undergraduate Courses Basic courses providing undergraduate credit, but not to be counted toward major or field of specialization in any department. Courses at this level are beginning courses, required or elective courses that may be a prerequisite to other courses.
2000-2999	UG - Intermediate Level Undergraduate Courses Intermediate courses providing undergraduate credit and may be counted toward a major or field of specialization.
3000-3999	UG - Upper Level Undergraduate Courses Upper Level courses providing undergraduate credit that may be counted toward a major or field of specialization.
4000-4999	UG - Advanced Level Undergraduate Courses Advanced Level courses providing undergraduate credit that may be counted toward a major or field of specialization. Graduate students may enroll in and receive graduate credit for 4000-level courses outside their own graduate program.
5000-5999	UG and G (Graduate) - Dual Career Level Courses Courses that are regularly offered for both graduate credit and undergraduate credit. Advanced Level courses providing undergraduate credit that may be counted toward a major or field of specialization. Foundational coursework and research providing graduate or professional credit.
6000-6999	G - Foundational Level Graduate and Professional Courses Foundational courses and research providing graduate or professional credit.
7000-7999	G - Intermediate Level Graduate and Professional Courses Intermediate courses and research providing graduate or professional credit.
8000-8999	G - Advanced Level Graduate and Professional Courses Advanced courses and research providing graduate or professional credit.

Quarter Calendar

000-099	Non-Credit Courses (except certain seminars and colloquia) for orientation, remedial, or other non-college-level experiences. Credit is not applicable to Graduation Requirements.
100-199	Basic Courses providing undergraduate Credit but not to be counted on a major or field of specialization in any department. Beginning Courses, Required, or Elective Courses that may be prerequisite to other courses.
200-299	Basic Courses providing Undergraduate Credit and may be counted on a major or field of specialization.
300-499	Intermediate Courses providing Undergraduate Credit or Basic Professional Credit that may be counted on a major or field of specialization.
500-599	Intermediate Courses providing Undergraduate or Professional Credit that may be counted on a major or field of specialization and may provide Graduate Credit only in other departments.
600-699	Courses providing Undergraduate or Professional Credit that may be counted on a major or field of specialization, and may provide Graduate Credit (in all departments).
700-799	Advanced Courses providing Undergraduate, Graduate, or Professional Credit.
800-999	Courses providing Graduate Credit and are open to undergraduates only with the approval of the Vice Provost for Research and Dean of the Graduate School.

**ACADEMIC TRANSCRIPT****Personal Information**

Student:	Laila UJAYLI	Date of Birth:	30 August 1996
University Reference:	1291637	HESA Reference:	1911565028644
Qualification Sought:	Master of Public Policy	FHEQ Level:	Masters
Start Date:	28 September 2020		

Programme Information

Teaching Institution:	University of Oxford	Awarding Institution:	University of Oxford
College:	Lady Margaret Hall	Mode of Attendance:	Full-time
Programme of Study:	Master of Public Policy	Language of Instruction:	English

Award Information

Qualification Awarded: Master of Public Policy in Public Policy
 Classification: Distinction
 Date of Award: 15 October 2021

Assessment Information

Academic Year	Assessment Name	Result Mark/Grade	Attempt Number
2020/21	Applied Policy - Behavioural Science and Decision Making in Public Policy	Pass	1
2020/21	Applied Policy - Communications	Pass	1
2020/21	Applied Policy - Negotiation	Pass	1
2020/21	Applied Policy - Public Budgeting	Pass	1
2020/21	Economics for Public Policy	67	1
2020/21	Evidence and Public Policy (Combined)	66	1
2020/21	Foundations	70	1
2020/21	Law and Public Policy	74	1
2020/21	Nationalism, Populism and the Future of Democracy	70	1
2020/21	Policy Challenge I	Pass	1
2020/21	Policy Challenge II (Combined)	70	1
2020/21	Summer Project Report	Merit	1
2020/21	The Politics of Policymaking	64	1
2020/21	Transnational Organised Crime and Global Security	69	1

End of Transcript



Transcript printed on 21 October 2021

Page 1 of 1

A handwritten signature in black ink, appearing to read 'J. P. H. the', located above the Registrar's name.

Registrar

THE UNIVERSITY OF OXFORD

Academic Administration Division
Examination Schools
High Street, Oxford, OX1 4BG
United Kingdom

Telephone: +44(0)1865 286212
<http://www.ox.ac.uk/students/graduation>
email: degree.conferrals@admin.ox.ac.uk

About the University of Oxford

The University of Oxford is an independent self-governing university. It is the oldest university in the English-speaking world and has been in continuous existence for some nine centuries. It is an international leader in learning, teaching and research. As a collegiate institution, it comprises the central university and 38 colleges and 6 permanent private halls.

University of Oxford Transcripts

The transcript should not be released to another person, organisation or institution except to officials internal to your own organisation or institution who have a reasonable business use for the information. Release to other parties requires the written consent of the student. The following information is provided to aid in the evaluation of this student's academic record. Further explanation or detailed information can be obtained by contacting Degree Conferrals at the above address.

Under University regulations, Boards of Examiners may, where appropriate, take account of information additional to the profile of marks listed overleaf in deciding the final degree classification awarded to any student.

The explanatory text on the transcript is subject to change until such time that the programme of study is completed.

Academic Credit

The University does not routinely apply credit weightings to its programmes and its courses are not generally taught on a modular basis. We take each year of full-time undergraduate study to equal 120 UK credits and 180 UK credits for Masters-level postgraduate study according to the Higher Education Credit Framework for England. In relation to the European Credit Transfer Scheme (ECTS), this is equivalent to 60 credits for undergraduate study and 90 credits for Masters-level postgraduate study.

Framework for Higher Education Qualifications (FHEQ levels)

8 (Doctoral)	Doctoral Degrees (e.g. DPhil, DCLinPsych)
7 (Masters)	Master's Degrees (including Integrated Master's Degrees) Postgraduate Diplomas & Certificates
6 (Honours)	Bachelor's Degrees with Honours Bachelor's Degrees Professional Graduate Certificate in Education
5 (Intermediate)	Undergraduate Diplomas
4 (Cert)	Undergraduate Certificates

Authentication

This academic transcript can only be considered authentic if it is printed on official University of Oxford transcript paper and bears both the Registrar's signature and the official University hologram. Further authentication may be obtained by contacting Degree Conferrals at the address above.

Mark Scales

All marks included on a final academic transcript have been ratified by the Registrar. Examiners are required to express final agreed marks on all formally assessed work according to the following marking scales:

Undergraduate Programmes

	Model 1	Model 2
70-100	First Class	Distinction
60-69	Upper Second Class	Pass
50-59	Lower Second Class	Pass
40-49	Third Class	Pass
30-39	Pass	Fail
0-29	Fail	Fail

Model 1 will be used for all final assessments. Model 2 will be used for all qualifying assessments unless the explanatory text overleaf states otherwise.

Postgraduate Taught Programmes

For students who started their courses **before** October 2018.

Model 1	Model 2	
70-100	70-100	Distinction
50-69	60-69	Pass
0-49	0-59	Fail

For students who started their courses **from** October 2018.

Model 1	Model 2	
70-100	70-100	Distinction
N/A	65-69	Merit
50-69	50-64	Pass
0-49	0-49	Fail

Model 2 will be used for all Award Programmes unless the explanatory text overleaf states otherwise.

Transcript Terminology

Results Not Moderated (On Course Transcripts Only): Indicates a mark that may be subject to moderation in the process of concluding the final outcome of an examination comprising more than one part and taken over more than one year.

Declared to have deserved: the exam board considered the candidate was absent from part of the examination for good cause and declared them to deserve the Award.

Programme Information

The relevant *Examination Regulations* for the programme are available at:
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**ACADEMIC TRANSCRIPT****Personal Information**

Student:	Laila UJAYLI	Date of Birth:	30 August 1996
University Reference:	1291637	HESA Reference:	1911565028644
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Start Date:	13 October 2019		

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Teaching Institution:	University of Oxford	Awarding Institution:	University of Oxford
College:	Lady Margaret Hall	Mode of Attendance:	Full-time
Programme of Study:	Master of Studies in Film Aesthetics	Language of Instruction:	English

Award Information

Qualification Awarded: Master of Studies in Film Aesthetics
 Classification: Distinction
 Date of Award: 27 August 2020

Assessment Information

Academic Year	Assessment Name	Result Mark/Grade	Attempt Number
2019/20	Concept Essay	67	1
2019/20	Dissertation	69	1
2019/20	Essay One	69	1
2019/20	Essay Two	71	1

Students studying in the 2019-20 academic year faced severe disruption due to the exceptional effects of the Covid-19 pandemic, impacting the March-June 2020 assessment period, and this should be taken into account in reading the transcript. Some parts of assessments were cancelled for reasons entirely beyond students' control; in these cases students are deemed to have passed and these assessments are listed without an accompanying mark.

End of Transcript



Transcript printed on 07 September 2020

Page 1 of 1

Registrar

THE UNIVERSITY OF OXFORD

Academic Administration Division
Examination Schools
High Street, Oxford, OX1 4BG
United Kingdom

Telephone: +44(0)1865 286212
<http://www.ox.ac.uk/students/graduation>
email: degree.conferrals@admin.ox.ac.uk

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For students who started their courses **from** October 2018.

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N/A	65-69	Merit
50-69	50-64	Pass
0-49	0-49	Fail

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Programme Information

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<https://www.admin.ox.ac.uk/examregs>

Richard H. Fallon, Jr.
HARVARD LAW SCHOOL
1545 Massachusetts Avenue
Areeda Hall 330
Cambridge, MA 02138

June 05, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to recommend Laila Ujayli, who has recently applied for a position as one of your law clerks.

I got to know Laila in the Fall semester of the just-concluded academic year when she enrolled in my class on the First Amendment. That class included an unusually strong group of students, even by the standards of Harvard Law School. More impressive and gratifying to me, the group exhibited extraordinary openness and even trust as they discussed hard issues in the classroom. As I think back on the Fall semester, I regard Laila as among the small handful of students who contributed most to the tone and substance of class discussions. When I cold-called on her, she was invariably prepared and thoughtful. In more free-wheeling conversations, Laila did not hesitate to take strong stands – especially in advocating a more European-style approach of denying or at least limiting constitutional protections of “hate speech” – but she always did so with empathetic acknowledgment of competing perspectives. Her contributions to class discussion were also impressively diverse. When we talked about the relative merits of rules- and standards-based formulae in various doctrinal contexts, Laila was an articulate champion of clear rules. In a discussion of tensions between the Establishment and Free Exercise Clauses, Laila called vivid attention to the entanglement issues that would arise if governments were required to assess the effectiveness of religiously-based academic instruction for purposes of disbursing government funds to religious as well as secular private schools. At the end of the semester, Laila registered a grade of Pass on the blind-graded final exam. Reflecting on her work over the entire semester, I can say with strong confidence that her grade for the First Amendment course does not accurately reflect her learning, her insights, or her contributions to her classmates’ education through her contributions to class discussion. In my estimation, she is an Honors-level student, and I recommend her accordingly.

Laila’s personal, academic, and professional background strongly influence my appraisal of her. After graduating from Ohio State University *summa cum laude*, Laila studied at Oxford University as a Rhodes Scholar and – unusually in my experience – chose to pursue two separate degrees. In order to enhance her communication skills, she sought and earned the degree of Master of Studies in Film Aesthetics. In order to enrich her capacities for policy analysis, she then completed a second course of study culminating in her receipt of the degree of Master of Public Policy. Observing Laila in my First Amendment class, I admired both her facility for effective expression and her hard-headed appraisals of likely real-world consequences of alternative doctrinal structures.

I also find it impressive that Laila has won acclaim as a semi-professional screenwriter, garnering awards for a film on the experience of civilians during the war in Syria. It is a testament to her energy that she has continued to work on screenwriting projects (with her twin sister) during her time at Harvard Law School while maintaining a full class schedule and participating in a number of Law School-related extracurricular activities, including service as Executive Managing Editor of the *Harvard Civil Rights-Civil Liberties Law Review*.

I might add, in conclusion, that Laila has a warmly engaged and engaging personality. I would expect working with her to be a pleasure.

Overall, I view Laila as highly capable with strong analytical and communicative skills. She is an accomplished writer. She works hard. For all of the reasons given above, I am pleased to recommend her.

If I could possibly provide any further information, please do not hesitate to contact me.

Sincerely,

Richard Fallon
Story Professor of Law

Richard Fallon - rfallon@law.harvard.edu - 617-495-3215

June 05, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

This is a letter of strong recommendation for Ms. Laila Ujayli, who has applied for a clerkship in your chambers. Ms. Ujayli is one of the very few students to whom I have offered a recommendation letter before they have sought one out, and in this letter, I hope to explain why. I will describe how I know Ms. Ujayli, my sense of her as a student and legal researcher and writer, and the reasons I believe she will make an excellent contribution to chambers.

Ms. Ujayli was a student in my Fall 2022 Public International Law course, as well as my 2022-2023 writing group. I will discuss these classes, and her performance, in turn.

Very briefly, Public International Law (PIL) is an intensive, four-credit doctrinal survey course that introduces students to the field of public international law. The first two-thirds of the course cover the classic foundations of the law, whereas the final third explores the application of doctrine to the substantive fields of the use of force, international human rights, and international humanitarian law. Unlike most large doctrinal courses, students do not have a casebook, but work with a dense textbook and unedited decisions of the International Court of Justice and other key tribunals. This year, I administered my most difficult examination to date, and Ms. Ujayli received an H in the course. In addition to this, she was an exceptional addition to the class: her questions and comments throughout the term were thoughtful, displayed a deep engagement with the reading, and often articulated concerns that many other students had. I note that Ms. Ujayli's transcript reflects a remarkable trajectory of improvement: based on my interactions with her, and her performance in my course, I would expect this to only continue and become more impressive over the next year.

It was in my writing group that I feel I really got to know Ms. Ujayli and her formidable skills. The writing group consists of a small number of students who work together over the course of an entire academic year to prepare a scholarly-length research paper, and who are asked to read and comment on their colleagues' projects as much as they develop their own. Ms. Ujayli's project was highly ambitious: to seek to capture the current state of international law regarding the sale and transfer of lethal weapons of war, and to connect this with gaps in corporate accountability at the domestic and international levels. The project was particularly daunting because it sought to provide an extensive descriptive account of arms sales from the United States as well as a normative analysis of how international law regulates these sales.

Ms. Ujayli's research, writing, and communicative skills were so exceptional that she was able to produce a paper that I consider publication-quality, and which I would be happy to share with many academic and practitioner colleagues. Perhaps most noteworthy, she was able to capture and distill an immense amount of factual and doctrinal information in a manner that is reader-friendly and engaging. Weapons law is often considered one of the more 'boring' aspects of the law of war, in part because it is so technical and fragmented across the domestic and international planes. By presenting her research through the lens of the "anatomy of an arms sale," from procurement through to the use of a particular weapon in a catastrophic strike in Yemen, Ms. Ujayli managed to write a gripping paper that conveys clearly to the reader why the law is in urgent need of rethinking. I was so impressed with her ability to bring such a technical set of issues to life, that I remarked to a number of colleagues about her paper and its potential for energizing new scholarship and practice in the discipline.

Just as impressive as her research and writing, Ms. Ujayli was an exceptional student in terms of her engagement with her colleagues' work. She conducted herself more like a fellow professor than a student: reading other students' writing carefully, bringing concrete ideas for how they could improve, using empathy to understand what kinds of arguments they were seeking to make, and then working with them to better develop their claims. I realize this is perhaps an over-utilized phrase in letters of recommendation, but she was truly a pleasure to have in class. She had the kind of editorial mind that made me think I would love to obtain her feedback on my own future drafts! For this reason, I was not surprised to learn that one of her Master's degrees is in film: she brings to law a sense of narrative flow and storyline that I think sets her apart in terms of her sense that we must be able to craft accounts of law and legal institutions that are compelling to a public audience, those whom the law is meant to serve.

For these reasons, I believe Ms. Ujayli will make an excellent contribution to chambers. She is a rigorous reader and analytical thinker, but also a gifted and mature writer and communicator. I expect great things from her as a public servant, and it has been a privilege to get to know her this year.

Please do not hesitate to contact me should you require further information or have additional questions.

Sincerely,

Naz Khatoon Modirzadeh
Professor of Practice
Director, Harvard Law School Program on International Law and Armed Conflict

Naz Modirzadeh - nmodirzadeh@law.harvard.edu - 617-495-1066

June 09, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am pleased to enthusiastically recommend Ms. Laila Ujayli for a clerkship in your chambers. Laila is a gifted writer, an incisive legal thinker, a pragmatic problem solver, and possesses the work ethic and professionalism to be an exemplary law clerk.

As background, I am a Professor of Practice at Harvard Law School, where Laila was my student. I served years ago as a law clerk to Supreme Court Justice Harry A. Blackmun and to U.S. District Court Judge Robert L. Carter in the Southern District of New York, and have occupied a number of senior government and non-profit positions over the years. In those capacities, I have taught, supervised, and worked with many hundreds of law students and recent graduates. In my estimation, Laila ranks among the top of those emerging professionals.

Laila was a student in my seminar on Framing, Narrative, and Supreme Court Jurisprudence and in my lecture course on Race and the Law. She received Honors grades in both classes. The Framing seminar often proves challenging to law students, as it requires them to read and discuss Supreme Court opinions from doctrinal, rhetorical, and strategic perspectives. Though Laila was a 1L at the time, she proved to be adept at each of these tasks, adding new insights and greatly enhancing classroom discussion. She produced an innovative and sophisticated final paper, exploring the Supreme Court's narrative construction of security in cases alleging executive abuse.

In my Race and the Law course, Laila consistently moved the entire class forward with cogent and insightful comments. Importantly, she was willing and able to tackle all sides of legal issues and handled provocative material with respect for different perspectives—a quality that is often lacking in students addressing sensitive topics. Her final exam was among the best in the class and again reflected her strong writing and analytical skills.

Laila came to law school with two master's degrees from the University of Oxford—one in the arts and one in public policy—and she has built upon that diverse scholarship to become a well-rounded and effective legal thinker and advocate. Outside of the classroom, she has amassed an impressive array of experiences relevant to the role of law clerk, including work with the U.S. Attorney's Office for Massachusetts, private law firms, international think tanks, and professional journals, as well as our own Civil Rights-Civil Liberties Law Review. Remarkably, her skills also include screenwriting, where she has received several awards and accolades.

Finally, Laila has a winning personality, including a nice sense of humor and a strong sense of herself, combined with a degree of modesty despite her considerable achievements. She would be a welcome presence in any judge's chambers.

In short, I believe that Laila exemplifies the qualities that one would want in a law clerk: excellent research and writing skills, sound analysis, good judgement, a strong work ethic, and a commitment to justice and the rule of law. I am pleased to give her my highest recommendation.

Thank you for the opportunity to comment on Laila's application. Please feel free to be in touch with any questions you may have.

Sincerely,

Alan Jenkins
Professor of Practice
Harvard Law School

Alan Jenkins - ajenkins@law.harvard.edu - 646-312-9278



U.S. Department of Justice

Joshua S. Levy
*Acting United States Attorney
District of Massachusetts*

Main Reception: (617) 748-3100

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1 Courthouse Way
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May 30, 2023

The Honorable Jamar K. Walker
District Judge
United States District Court for the Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Re: Letter of Recommendation for Laila Ujayli, Harvard Law School

Dear Judge Walker:

It is my pleasure to submit this letter of recommendation for Laila Ujayli to serve as a law clerk in your chambers. As background, I am an Assistant United States Attorney focusing on securities fraud and other white collar crimes. Before joining the Department of Justice, I worked for a global law firm, and before that, I served as a law clerk for two judges on the United States Court of Appeals for the Second Circuit and the United States District Court for the District of Massachusetts, respectively.

Laila completed a semester-long clinical internship with the United States Attorney's Office during her second year at Harvard Law School, and I was Laila's principal supervisor during that internship. Since I joined the office, Laila has been the highest-performing intern in our unit. Her legal research, which she often performed under the pressures of trial, was on-point, efficient, and thoughtful. Similarly, Laila's written work, including legal memoranda and drafts of pleadings, was clear, concise, and persuasive.

Laila's work ethic matches her abilities. She would often arrive early and stay late, and she even made herself available on days when she was not scheduled to work due to her class schedule. There is no doubt in my mind that Laila, right now, would serve as an exceptional law clerk, even with a year remaining in law school; frankly, she performed at a higher level than most junior associates with whom I worked in private practice.

I understand that your chambers receives hundreds of letters of recommendation on behalf of qualified and hard-working applicants like Laila. Nevertheless, I believe what sets Laila apart from other applicants is the array of “soft” qualities that may not be apparent from her resume. Laila exhibits intellectual and emotional maturity well beyond her years. She demonstrates a unique ability to balance intellectual curiosity, open-mindedness, and an ability to listen to other viewpoints on one hand, with firm beliefs and the ability to speak persuasively on the other hand. Exuding credibility, Laila is confident when she knows the answer to a question, and equally confident to acknowledge that she does not yet know the answer—but will find it.

Finally, everyone in our unit, from paralegals to our unit chiefs, found Laila a delight to work with, and she is exactly the type of co-worker I would have enjoyed working with every day when I was a law clerk.

* * *

Thank you for your time and attention to this letter. If further information would be helpful, I would be happy to discuss Laila’s application by phone. At your convenience, I can be reached at 617-748-3208 and ian.stearns@usdoj.gov.

Sincerely,

/s/ Ian J. Stearns

Ian J. Stearns

Assistant United States Attorney

LAILA UJAYLI

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WRITING SAMPLE

Drafted Spring 2022

The attached is an excerpt from a 20-page paper for a seminar titled “Framing, Narrative, and Supreme Court Jurisprudence.” For length, I have removed discussion of a class-specific mode of narrative inquiry and in-depth analysis of a concurring justice’s opinion in the primary case examined for the paper, *United States v. Zubaydah*.

**Obscuring Abuse:
Security, State Secrets, and Storytelling in *United States v. Zubaydah***

Dissenting in *United States v. Zubaydah*, Justice Gorsuch writes that “recent history reveals that executive officials can sometimes be tempted to misuse claims of national security to shroud major abuses and even ordinary negligence from public view.”¹ Joined by Justice Sotomayor, Justice Gorsuch articulates a case against the long-standing practice of utmost judicial deference to the executive branch on issues implicating national security, specifically within the context of the state secrets privilege.

Justice Gorsuch’s choice of the “shroud” metaphor is an apt one. To shroud is to cover or envelope something. Most commonly, we use the term when we describe wrapping a corpse before burial – draping fabric across a body to obscure the deceased from public view. Similarly, when granting judicial deference to the government on issues of national security, the Supreme Court has often narratively constructed security as a barrier between “neutral” evidentiary issues and the injuries for which aggrieved persons seek a remedy. This construction insulates the Court from weighing purportedly legitimate security interests against allegedly abusive executive action, ultimately operating to obscure government abuse from the critical eyes of the Court – and the public.

This paper explores the Court’s narrative construction of security in cases involving discrimination or executive abuse. Part I examines the Court’s past deployment of narrative techniques like episodic framing to construct this security barrier and dissenting justices’ use of metaphor to pierce it. Part II introduces *Zubaydah* and the state secrets privilege. Part III examines the construction of the security barrier in *Zubaydah*’s plurality opinion, and the efforts to challenge it in the dissent. Finally, Part IV concludes with the importance of dismantling this narrative

¹ *United States v. Zubaydah*, 142 S. Ct. 959, 985 (2022).

construction of security in future cases.

I. Framing and Metaphor: Examining the Court's Security Narratives

Narratology, or the study of “what the narrative is, how it works, what its parts might be, and how they might go together,” can offer useful tools for examining how judges arrive at legal outcomes and seek to legitimate those outcomes.² That legitimizing effort is especially important for Supreme Court opinions that are likely to be widely disseminated and consumed, including to those outside the legal profession. In these opinions, American literary theorist Peter Brooks argues that part of the Court’s task is to “activate conviction that its narrative is the true and the right one.”³ Therefore, the “ability to analyze narrative as narrative – to take it apart and put it back together in the manner of the narratologist – could be of clear benefit to those who have to make legal sense of ‘what happened.’”⁴ In an effort to unpack “what happened” in *Zubaydah*, this paper focuses on two general narrative techniques deployed in cases litigating allegations of government abuse that implicate security: first, the use of episodic or thematic framing to attribute responsibility; and second, the use of metaphor to challenge that framing. This section explores how each of these techniques contribute to the narrative construction of security as a barrier.

The framing of a political issue can impact an audience’s attribution of responsibility. In exploring this dynamic in television news, political scientist Shanto Iyengar distinguishes between two types of frames: episodic and thematic.⁵ The episodic news frame illustrates broader political issues through specific examples or events, such as “a terrorist bombing, a homeless person, or a case of illegal drug usage.”⁶ By contrast, the thematic frame “depicts political issues more broadly

² Peter Brooks, *Narrative Transactions – Does the Law Need a Narratology?* 18 YALE J.L. & HUMAN. 1, 4 (2006).

³ *Id.* at 27.

⁴ *Id.* at 25.

⁵ Shanto Iyengar, *Framing Responsibility for Political Issues*, 546 THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 59, 59-60 (1996).

⁶ *Id.* at 62.

and abstractly by placing them in some appropriate context – historical, geographical, or otherwise.”

⁷ For example, an episodic frame might profile an unemployed coal miner, while the thematic frame might feature a series of individuals – from coal miners, to economists, to climate scientists – speaking to evolving trends in American energy. While most reporting combines episodic and thematic elements, the predominant frame can impact what the viewer takes away from the story. This happens in two ways. First, the frame can shape a viewer’s decision about whether individuals, or society more generally, bear causal responsibility for the issue portrayed.⁸ Second, the frame can inform a viewer’s opinion as to how society and government should alleviate the problem by, for example, addressing underlying political or economic grievances (societal treatment responsibility) or imposing retaliation or punishment against individuals (punitive treatment responsibility).⁹

After conducting an experimental study, Iyengar found that “episodic framing breeds individualistic as opposed to societal attributions of responsibility.”¹⁰ He notes that framing choices can have a significant impact on stories about crime and security, including terrorism:

When the news depicted terrorism in thematic terms – for instance, by noting recent changes in US diplomatic policy toward countries suspected of fomenting international terrorism – viewers’ causal and treatment attributions gravitated toward societal factors. When the news depicted a particular act of terrorism, however, attributions became specifically more individualistic and punitive in orientation.¹¹

As a result of the study, Iyengar concludes that episodic framing tends to trace national issues to “private actions and motivations rather than deep-seated socioeconomic or political conditions.”¹² Episodic framing thus makes it less likely that the audience will attribute responsibility for major issues to systemic failings, and the government’s shortcomings in addressing them. Consequently,

⁷ *Id.*

⁸ *Id.* at 64–65.

⁹ *Id.*

¹⁰ *Id.* at 62.

¹¹ Iyengar, *supra* note 5, at 66.

¹² *Id.* at 62.

Iyengar finds that by “reducing complex issues to the level of anecdotal cases, episodic framing leads viewers to attributions that shield society and government from responsibility.”¹³

Although Iyengar’s research focuses on television news, his distinction between episodic and thematic frames – and their subsequent connection to the attribution of responsibility – is useful for analyzing the framing choices in Supreme Court opinions. While the case format might naturally lend itself to episodic framing, the degree to which a judicial opinion prioritizes a thematic over an episodic frame, or vice versa, can vary. By looking at a few security cases litigating executive abuse, it is possible to identify a pattern. Opinions that defer to the government often deploy an episodic frame. By contrast, opinions that rule against the government will primarily rely on a thematic frame. Notably, the judiciary’s historically expansive deference to the government on security interests creates a trend of episodic frames in the majority opinions, and thematic frames in the dissents.

Take, for example, one of the most infamous cases of racial discrimination justified by purported national security concerns: *Korematsu v. United States*, which held that the exigencies of war and threats to national security made the exclusion and internment of Japanese Americans constitutional.¹⁴ Justice Black’s majority opinion is predominantly episodic in nature. He largely limits his discussion to the military orders at issue, characterizing *Korematsu* as nothing more than a case about the enforceability of a singular military order in a discrete moment in time.¹⁵ By contrast, the dissenting opinions each adopt distinct thematic frames that situate *Korematsu* within some broader context. Justice Roberts situates the orders within the wider context of war with Japan to show that *Korematsu* was not about the violation of a discrete military order, but about an order that

¹³ *Id.* at 70.

¹⁴ *Korematsu v. United States*, 65 S. Ct. 193, 223 (1944).

¹⁵ *Id.* at 197 (“Our task would be simple... were this a case involving the imprisonment of a loyal citizen in a concentration camp because of racial prejudice. Regardless of the true nature of the assembly and relocation centers... *we are dealing specifically with nothing but an exclusion order?*”) (emphasis added).

was itself “part of an overall plan for forceable detention.”¹⁶ Meanwhile, Justice Murphy situates *Korematsu* within the broader doctrine of judicial discretion to the military in times of war and a pattern of wider prejudice directed against Japanese-Americans.¹⁷ Lastly, while Justice Jackson’s dissent seems to begin episodically with a focus on Fred Korematsu himself,¹⁸ his dissent ultimately focuses on the precedent that would be set by *Korematsu* within the wider arc of constitutional restraints on executive action – explicitly warning against the dangers of the Court limiting its analysis to the validity of this singular military order without taking into account the “generative power” of such a holding.¹⁹ Therefore, while the majority treats the exclusion order as part of a singular event in American history, the dissents attempt to place it within some broader context to interrogate the appropriateness of the government’s conduct.

This framing pattern is also identifiable in a more recent case: *Trump v. Hawaii*, which held that Proclamation No. 9645’s placement of entry restrictions on nationals of select countries was a facially neutral policy that was within the executive authority of the President, despite the anti-Muslim statements that allegedly motivated the policy first described by then-presidential candidate Donald Trump as a “Muslim ban.”²⁰ The majority opinion, authored by Chief Justice Roberts, is predominantly episodic. While the Chief Justice historically situates the ban and addresses the petitioners’ claims of discrimination, his focus remains narrowly on the Proclamation itself – its development, its justifications, its authorizing legislation, and the critiques leveled against it. His story thus centers on a specific Proclamation and its various contours. By contrast, Justice Sotomayor’s dissent is thematic, telling a broader story about the promise of religious liberty in the

¹⁶ *Id.* at 201 (Roberts, J., dissenting).

¹⁷ *See id.* at 202 (Murphy, J., dissenting).

¹⁸ *See id.* at 206 (Jackson, J., dissenting) (“Korematsu was born on our soil, of parents born in Japan”).

¹⁹ *See id.* at 207 (“A military order, however, unconstitutional, is not apt to last longer than the military emergency. Even during that period a succeeding commander may revoke it all. But once a judicial opinion rationalizes such an order to show that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure...”).

²⁰ *Trump v. Hawaii*, 138 S. Ct. 2392, 2403 (2018).

United States and chronicling the former president's history of anti-Muslim statements.²¹ To Justice Sotomayor, *Trump v. Hawaii* is not a story about the failings of a specific Proclamation, but about a president's attack on a minority faith; the Proclamation is merely a single event in a wider arc.

In cases where the Court defers to the government, an episodic frame insulates the Court from fully reckoning with allegations of abuse. Each case is atomized. Complex questions about the constitutionality of government action are reduced to the "level of anecdotal cases" characterized by uniquely exigent circumstances.²² Judicial deference is justified on the need to permit the executive branch to flexibly respond to them. The Court can therefore rule narrowly on the evidentiary and procedural issues surrounding the government's action, as opposed to the legality of the underlying action. By positioning broader questions about the abusive or discriminatory exercise of executive power beyond the Court's view, this episodic framing ultimately works to shield government from responsibility.²³

To draw attention to this dynamic, dissenting justices employ another narrative technique: metaphorical argumentation. Legal rhetoric scholar Linda Berger writes that an argument is metaphorical for relying "on seeing one thing *as* another" and "mapping or transferring the characteristics, reasoning, processing, and outcomes of one domain (the source) onto another (the target)."²⁴ As a result, metaphor invites the audience to see certain aspects of a concept, increasing – or limiting – its meaning.²⁵

Metaphors centered on blindness and concealment are sometimes used by dissenting justices in cases involving judicial deference on issues of national security. In Justice Roberts' dissent in

²¹ See *id.* at 2433 (Sotomayor, J., dissenting).

²² Iyengar, *supra* note 5, at 70.

²³ See *id.*

²⁴ Linda L. Berger, *The Lady or the Tiger? A Field Guide to Metaphor and Narrative*, 50 WASHBURN L.J. 275, 278 (2010).

²⁵ See *id.*

Korematsu, he twice refers to the justices “shutting [their] eyes.”²⁶ Years later, Justice Sotomayor similarly invokes the concept of shutting eyes or concealing in *Trump v. Hawaii* by using “blindly”: “By *blindly* accepting the Government’s misguided invitation to sanction a discriminatory policy motivated by animosity toward a disfavored group, all in the name of a superficial claim of national security, the Court redeploys the same dangerous logic underlying *Korematsu*.”²⁷ Sotomayor also quotes from another case, which noted that security remains a matter of judicial concern: “[National security] is not ‘a talisman’ that the Government can use to ‘ward off inconvenient claims – a ‘label’ used to ‘cover a multitude of sins.’”²⁸ Metaphors of blindness and concealment clarify the dynamic created by the Court’s episodic framing – the government enfoldes discriminatory claims within the exigencies of national security, and justices “blindly” refuse to lift the fabric. The justices drawing attention to this construction speak more directly to the opinions to highlight the broader, thematic issues implicated. These narrative patterns offer a useful framework for approaching similar cases, including *Zubaydah*.

II. *Zubaydah* and the State Secrets Privilege

Zubaydah concerns the scope of the government’s common-law state secrets privilege. The Court first formally recognized the privilege in *United States v. Reynolds* (1953), where family members of civilians killed in a military plane crash were barred from accessing the flight accident report due to the government’s claim that it contained sensitive information about military equipment.²⁹ Their claims, however, were allowed to proceed – just without the information that posed a purported risk to national security. Since *Reynolds*, the privilege has expanded, increasingly used to dismiss entire

²⁶ See *Korematsu*, 65 S. Ct. at 201 (Roberts, J., dissenting).

²⁷ See *Trump* at 138 S. Ct. at 2448 (Sotomayor, J. dissenting) (emphasis added).

²⁸ See *id.* at 2446 (citing *Ziglar v. Abbasi*, 582 U.S. 120, 143 (2017)) (emphasis added).

²⁹ *United States v. Reynolds*, 73 S. Ct. 528, 533-34 (1953).

cases as early as the pleading stage.³⁰ Its use has also accelerated. While the government invoked the privilege only 16 times between 1961 and 1980, it did so at least 49 times between 2001 and 2021.³¹ Meanwhile, the Supreme Court has rarely granted certiorari to address the privilege's scope. Thus, as the (unsuccessful) petitioners argued in *Khaled El-Masri v. United States*, "a broad range of executive misconduct has been shielded from judicial review after the *perpetrators themselves* have invoked the privilege to avoid adjudication."³² Last term, however, the Court took up *Zubaydah* to offer more insight into the scope of the state secrets privilege.

Zubaydah asks whether the government can exercise its state secrets privilege to block Guantanamo detainee Zayn Al-Abidin Muhammad Husayn (Abu Zubaydah) from obtaining discovery about his treatment at a CIA black site in Poland to support a Polish investigation into potential crimes committed there. Abu Zubaydah's legal team sought to depose the two architects of the CIA's torture program, James Mitchell and Bruce Jessen. The government intervened and asserted state secrets privilege to block the discovery request, arguing that it would force Mitchell and Jessen to confirm that the site existed in Poland, a confirmation that in and of itself would harm U.S. national security.

Central to the dispute is whether the government can assert state secrets over information that is effectively public knowledge. What has been declassified of the Senate's Report on the CIA's detention and interrogation practices already details much of Abu Zubaydah's treatment in Thailand, as his respondent brief puts forth:

For twenty consecutive days, [CIA contractors Mitchell and Jessen] tortured Abu Zubaydah. Eighty-three times, they strapped him to a board with his head lower than his feet while they poured water up his nose and down his throat. Just when they thought he would drown, they raised the board, allowing him a moment to vomit and gasp before they repeated the

³⁰ Carrie Newton Lyons, *The State Secrets Privilege: Expanding its Scope through Government Misuse*, 11 LEWIS & CLARK L. REV. 99, 117 (2007).

³¹ See *Zubaydah*, 142 S. Ct. at 993 (Gorsuch, J., dissenting).

³² Petition for Writ of Certiorari at 14, *Khaled El-Masri v. United States of America*, 479 F.3d 296 (4th Cir. 2007) (No. 06-0000).

torture. During one session, Abu Zubaydah became ‘unresponsive, with bubbles rising through his open, full mouth.’

Abu Zubaydah was also handcuffed and repeatedly slapped and slammed into walls, forced into a tall, narrow box the size of a coffin, and crammed into another box that would nearly fit under a chair, where he was left for hours. At least once, he was subjected to ‘rectal rehydration.’ The objective of this torture was to ‘induce complete helplessness’ and ‘reach the stage where we have broken any will or ability of the subject to resist’...

In this they succeeded. By the sixth day of his torture, Abu Zubaydah was sobbing, whimpering, twitching, and hyperventilating. He was so broken that he complied with orders at the snap of a finger.³³

Mitchell and Jessen themselves have published a book on the CIA’s program and have been interviewed about Abu Zubaydah’s treatment in Thailand.³⁴ They, however, have not testified about Abu Zubaydah’s treatment in Poland, which prompted the discovery request. Yet the existence of the Poland black site is widely accepted: the Council of Europe issued a report finding that the CIA held Abu Zubaydah in a black site in Poland; the European Court of Human Rights found “beyond a reasonable doubt” that Abu Zubaydah was detained at a black site in Poland; and the President of Poland at the time even confirmed that the black site was established there with his knowledge.³⁵ For these reasons, the Ninth Circuit held that discovery could proceed on the existence of a CIA detention facility in Poland and Abu Zubaydah’s treatment there because the state secrets privilege did not apply to publicly known information.³⁶

A fractured majority of the Supreme Court disagreed, accepting the government’s argument that the mere confirmation of the black site’s existence in Poland could constitute a threat to national security. In a 6-3 decision, the Court reversed the Ninth Circuit’s holding and remanded the case with instructions to dismiss Abu Zubaydah’s application for discovery. The plurality opinion, delivered by Justice Breyer, held that the Government provided “sufficient support for its claim of

³³ Brief on the Merits for Respondents at 5-6, *United States v. Zubaydah*, 142 S. Ct. 959 (2022) (No. 20-827).

³⁴ See *Zubaydah*, 142 S. Ct. at 999 (Gorsuch, J., dissenting).

³⁵ See *id.* at 12.

³⁶ See *id.* at 961.

harm to warrant application of privilege.”³⁷ Concurring in part and in judgement, Justice Thomas, joined by Justice Alito, argued that the Court had no reason to review the Government’s justifications at all because Abu Zubaydah only made a “dubious showing of necessity.”³⁸ Concurring in part, Justice Kavanaugh, joined by Justice Barrett, sought to clarify how a claim of privilege should be reviewed based on *Reynolds*. Concurring in part and dissenting in part, Justice Kagan accepted the government’s claim of privilege but would have remanded the case to allow discovery to go forward while “protecting classified information about location while giving [Abu] Zubaydah access to unclassified information about detention conditions and interrogation methods.”³⁹ Justice Gorsuch, joined by Justice Sotomayor, dissented and rejected the government’s claim, arguing that the information was effectively public and other methods were available to shield sensitive information.⁴⁰ This following section focuses on Justice Breyer’s plurality opinion, and Justice Gorsuch’s dissent.

III. Narrative Analysis of *Zubaydah*

“Obviously the Court condones neither terrorism nor torture, but in this case we are required to decide only a narrow evidentiary dispute,” writes Justice Breyer for the *Zubaydah* plurality.⁴¹ The line encapsulates Justice Breyer’s approach. As he defers to the government’s arguments, he relies on an episodic frame to tell a story about *Zubaydah* that is confined to evidentiary issues. He limits his analysis to examining the government’s arguments, the state secrets doctrine, and Abu Zubaydah’s need for the information. The opinion is so confined to this singular case that broader issues about the exercise of executive power slip to the sidelines. Responding to the dissent’s raising of those issues, Justice Breyer writes, “Justice Gorsuch ignores the nature of this

³⁷ See *id.* at 964 (Breyer, J.)

³⁸ See *id.* at 973 (Thomas, J., concurring).

³⁹ See *id.* at 983 (Kagan, J., concurring in part and dissenting in part).

⁴⁰ *Zubaydah*, 142 S. Ct. at 985 (Gorsuch, J., dissenting).

⁴¹ See *id.* at 967 (Breyer, J.).

litigation. This case arises from *Zubaydah*'s *ex parte* application for discovery under §1782. It is a purely evidentiary proceeding and thus unlike most litigation, which may, after a successful assertion of the state secrets privilege, 'continue without the government's privileged proof.'⁴² Here, Justice Breyer expressly rejects a broader frame. To him, *Zubaydah* represents a singular application of doctrine – not an additional chapter in a line of cases that expand judicial deference to national security, and not a case that might have generative power of its own to further extend that line.

By contrast, Justice Gorsuch offers a sweeping thematic dissent. Skirting a narrow analysis of the contours of Abu Zubaydah's case and the appropriate application of *Reynolds*, Justice Gorsuch casts *Zubaydah* as a missed opportunity to accept responsibility for American mistakes and prevent the unchecked abuse of executive power. He not only details Abu Zubaydah's "ordeal"⁴³ at the hands of the CIA but pulls as far back as the differences between American presidents and British kings to interrogate the purposes and problems of the state secrets doctrine. He even contextualizes *Reynolds*, noting that decades after that case, the flight report was found to contain no state secrets, only proof of government negligence.⁴⁴ Justice Gorsuch also situates *Zubaydah* within a larger arc of cases: "Walking that path [of utmost deference] would only invite more claims of security in more doubtful circumstances – and facilitate the loss of liberty and due process history shows very often follows."⁴⁵ Justice Gorsuch, therefore, frames his dissent as a wider story about accountability for executive abuse. He returns three times to the notion of the executive threatening to withhold the "right of every man's evidence."⁴⁶ He also begins his dissent with the proclamation: "There comes a point where we should not be ignorant as judges of what we know to be true as citizens," as if

⁴² See *id.* at 972.

⁴³ See *id.* at 986 (Gorsuch, J., dissenting).

⁴⁴ See *id.* at 993.

⁴⁵ See *id.* at 994.

⁴⁶ *Zubaydah*, 142 S. Ct. at 991 and 995 (Gorsuch, J., dissenting).

seeking to pull the plurality away from their narrow focus on procedure to occupy a wider lens.⁴⁷

When the plurality rejects the invitation, Justice Gorsuch subsequently casts the Court as an accomplice to the executive that “[abdicates] judicial responsibility...in favor of the Executive’s wish to brush this case out the door”⁴⁸ and “replace[s] judicial inquiry with a rubber stamp.”⁴⁹

Justice Gorsuch bolsters this framing with metaphor. Instead of blindness, he focuses on concealment. He describes the government’s use of national security to “*shroud* major abuses”⁵⁰ and executive officials’ temptation “*to cover up* their own mistakes and even their wrongdoing *under the guise* of protecting national security.”⁵¹ Here, Justice Gorsuch highlights the construction of security as a barrier between the Court and allegations of executive abuse. He also attributes a new quality to the construction: Shame. “The facts are hard to face,” he writes, again evoking an image of the Court tempted to turn away.⁵² He continues, “We know that our government treated Zubaydah brutally... Further evidence along the same lines may lie in the government’s vaults.”⁵³ While different from a shroud or guise, the characterization of these allegations of abuse lying in a vault, locked away and hidden, also recalls concealment. Justice Gorsuch finally concludes: “We should not let shame *obscure* our vision.”⁵⁴

Applying a narrative framework highlights the differences in each justice’s approach to *Zubaydah*. Justice Breyer leans on an episodic frame, while Justice Gorsuch’s dissent is thematically framed. Ultimately, Justice Breyer’s opinion works to insulate the Court from reckoning with the root of Abu Zubaydah’s request – the desire for information about his abuse at the hands of the

⁴⁷ See *id.* at 985.

⁴⁸ See *id.* at 999.

⁴⁹ See *id.* at 1000.

⁵⁰ See *id.* at 992 (emphasis added).

⁵¹ See *id.* at 994 (emphasis added).

⁵² *Zubaydah*, 142 S. Ct. at 1001.

⁵³ *Id.*

⁵⁴ *Id.*

U.S. government to complete his story.⁵⁵ Using metaphor, Justice Gorsuch highlights this narrative construction by mapping inferences from concrete visual images like shrouds, guises, covers, and vaults onto abstract concepts like judicial deference to illustrate security as a type of barrier utilized to conceal abuse and obscure the Court's vision.

IV. Conclusion

There is something unsettling about the Court deploying narrative techniques that shrink the scope of a story in a case where a petitioner sought the information to adequately tell his own. Much remains to be said about how the state secrets doctrine may undermine democracy⁵⁶ and “the aspiration that a remedy be available for a violation of law.”⁵⁷ While Justice Gorsuch's dissent in *Zubaydah* offers an opportunity to reckon with the wider political issues at stake in the state secrets doctrine, only Justice Sotomayor elected to join. Therefore, such abuse may remain shrouded unless the Court changes course.⁵⁸

How narratives about the state secrets doctrine and security are constructed by justices can shape how the public approaches these issues. Iyengar argues that the ultimate effect of narrow, episodic frames is to “protect elected officials from policy failures or controversies.”⁵⁹ “Americans are not, however, intrinsically averse to structural accounts of responsibility for political issues,” Iyengar argues. “When the news presents a general frame of reference for national problems, viewers' reasoning about causal and treatment responsibility shifts accordingly.”⁶⁰ When deploying a thematic frame, the Court can resist shielding the government from responsibility – even if doctrine and precedent demand that deference be applied. Situating cases that litigate executive abuse within

⁵⁵ See *id.* at 987.

⁵⁶ See Claire Finkelstein, *How the State Secrets Doctrine Undermines Democracy*, BLOOMBERG LAW (Mar. 28, 2022), <https://news.bloomberglaw.com/us-law-week/how-the-state-secrets-doctrine-undermines-democracy>.

⁵⁷ DAVID RUDENSTINE, *THE AGE OF DEFERENCE: THE SUPREME COURT, NATIONAL SECURITY, AND THE CONSTITUTIONAL ORDER* 284 (2016).

⁵⁸ See Finkelstein, *supra* note 56.

⁵⁹ Iyengar, *supra* note 5, at 62.

⁶⁰ *Id.* at 70.

broader political questions about the appropriate balance of power can reintroduce democratic accountability to a sphere where it is lacking. It is one thing to accept a government's claim of privilege. It is another to detach that deference from reckoning with the raw exercise of executive power. Rather than insulate itself from reckoning with those failures, the Court should lift the shroud and face them.

Applicant Details

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Date of BA/BS **May 2019**
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Date of JD/LLB **May 30, 2024**
Class Rank **School does not rank**
Does the law school have a Law Review/Journal? **Yes**
Law Review/Journal **No**
Moot Court Experience **No**

Bar Admission

Admission(s) **Texas**

Prior Judicial Experience

Judicial Internships/Externships **Yes**

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Organizations	Hispanic National Bar Association (HNBA) Dallas Hispanic Bar Association (DHBA) Just the Beginning Organization
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June 6, 2023

U.S. District Judge Jamar K. Walker
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker:

I was excited to learn about the Law Clerk position in Norfolk with the U.S. Eastern District Court. The opportunity to work for a Federal District Judge is exactly what I am looking for. The internship experience I gained with Judge Cardone, combined with my robust legal writing record have given me the skills necessary to make a strong contribution to this Court.

While working with Judge Hoffman, I learned the importance of time sensitive projects, as well as maximizing work product completion. Some of the skills I would bring to the Law Clerk position are:

- Strong legal writing skills
- Outstanding communication skills
- A passion and flair for case projects

I welcome the opportunity to meet with you in person to discuss my skills and experience. Please feel free to contact me at Josephulloa@my.untDallas.edu or by phone at (512) 413-7570.

Thank you in advance for your consideration.

Sincerely,

Joseph Ulloa

Joseph Ulloa

Dallas, TX

(512) 413-7570

Josephulloa@my.untDallas.edu

SUMMARY OF QUALIFICATIONS

- Strong verbal and written communication skills
- Distinguished research and analytical skills, Lexis+ Proficiency Certified and Practice-Ready Certified
- Hands on work experience with federal and state judges

EDUCATION

The University of North Texas at Dallas College of Law (UNT Dallas COL)

Candidate for Juris Doctor

May 2024

Hispanic National Bar Association (HNBA)

October 2021

- (HNBA) Scholar – “Vision in Action” Recipient

The University of Texas at San Antonio (UTSA)

Bachelor of Business Administration in Management

May 2019

Concentration in Legal Studies

Cumulative GPA: 3.25

Major GPA: 3.45

UTSA Summer Law School Preparation Academy- 6 Hours Earned

Summer 2017

- Engaged in panel discussions with local attorneys, judges, law school professors, and politicians
- Key subjects where I excelled included “Writing for Pre-Law” and “Constitutional Law”

EXPERIENCE**Incoming Judicial Intern to Judge Larson – U.S. Northern District, Dallas, TX**

May 2023 – July 2023

- 2023 American College of Bankruptcy Scholar
- Participated in mandatory Bankruptcy Education Programs instructed by federal judges via Zoom
- Observed daily hearings and trials
- Observed complex trials and listened to an Article I Judge analysis in chambers
- Probed Judge’s opinion on plaintiff and defense counsel arguments
- Conducted research and review of trial documents and prepared a memo for Judicial clerks

Judicial Intern to Judge Cardone – U.S. Western District Court, El Paso, TX

June 2022 – July 2022

- Observed daily hearings and jury trials
- Conferred with Judge and Clerks on a Ninth Circuit appellate case by designation
- Conducted research and review of trial documents and prepared a bench memo regarding the intracorporate conspiracy doctrine, including a recommendation to the Judge on how to rule
- Fact and law checked a Report and Recommendation by a Magistrate Judge
- Observed a criminal trial and listened to a District Judge analysis in chambers

Judicial Intern to Judge Hoffman - 68th District Court, Dallas, TX

May 2022 – June 2022

- Conducted research and review of trial documents and prepared a bench memo regarding Texas civil procedure, including a recommendation to the judge on how to rule
- Observed daily hearings and jury trials including cases on personal injury
- Reviewed motions for substitute service and default judgments
- Attended regular networking events with Dallas area attorneys, the Dallas Bar Association, and the Women’s Advocacy Awards

- Participated in Dallas Association of Young Lawyers trial skills boot camp as a mock trial witness

Lexis Associate – UNT Dallas COL Representative, Dallas, TX August 2022 – Present

- Assisted law students with legal research in caselaw, statutes, and secondary sources
- Participated in Lexis legal research certification courses
- Stay current with new Lexis research tools and features
- Managed and tabled Lexis events encouraging legal research

Law Clerk Manager - Brown & Ortiz, P.C., San Antonio, TX January 2017 – May 2017

- Prepared and assisted with weekly zoning applications for attorneys
- Researched properties and codes through the city geographic information services database
- Filed, copied, and aided with other projects as attorneys requested

ACTIVITIES AND HONORS

- **UTSA Summer Law School Preparation Academy** Summer 2023
 - UTSA Pre-Law volunteer tutor
 - Tutor Contracts, Constitutional analysis, and Legal Research and Writing
 - Participated in Law School Students' Panel
- **The Memorial Foundation – Martin Luther King Jr.** 2021-2022
 - Social Justice Fellow
 - Engaged in keynote sessions to enhance foundational knowledge, build skills, and encourage dialogue on current issues within social justice movements
 - Developed and shared a proposal for building a movement on an issue impacting a regional community
 - Engaged with members of the U.S. House and U.S. Senate on issues of social justice and public policy
- **UTSA Alumni Austin Chapter** 2020-2021
 - Vice President
 - Coordinated programs and meetings to work hand in hand with Alumni Association
 - Managed Council e-mail and responded to all inquiries pertaining to the council
 - Assisted administrators at group functions to promote and familiarize with operations
- **Teach for America (TFA)** 2019
 - TFA Corps Member (Selected out of 1000s of candidates to teach in an urban or rural school district across the nation)
 - Engaged in Diversity, Equity, Inclusion development workshops and taught a remedial summer program in Houston ISD
- **UTSA Student Leadership Center-** Participation required in the following events
 - Civil Rights & Social Justice Experience in Southern United States Spring 2018
 - Latinx Leadership Summit Spring 2018
 - Justice Patricia O. Alvarez Storytelling Brunch Fall 2017

ADDITIONAL INFORMATION

- Conversational in Spanish (writing, reading, speaking)
- Interests: Marathon and 10K runner, historical non-fiction reader



UNT Dallas COL Unofficial Transcript - review only

Name: Ulloa, Joseph
Student ID: 11035022

Print Date: 06/05/2023
Student Address: 1900 Elm St Apt 208
Dallas, TX 75201-4568

Program: Juris Doctor
07/20/2021: Active in Program
07/20/2021: JURIS DOCTOR Major

Program: Juris Doctor
08/30/2022: Active in Program
08/30/2022: JURIS DOCTOR Law Juris Doctor Major

Academic Program History

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	2.833	Term Totals	15.000	15.000	15.000	42.500

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	2.872	Cum Totals	31.000	31.000	29.000	83.300

Academic Standing Effective 06/06/2022: Good Standing

Beginning of Law Record

Fall 2021						
<u>Course</u>		<u>Description</u>	<u>Attempted</u>	<u>Earned</u>	<u>Grade</u>	<u>Points</u>
LAW	7099	BEDFORD MENTOR PROGRAM	0.000	0.000	P	0.000
LAW	7100	INTRODUCTION TO LEGAL STUDIES	1.000	1.000	P	0.000
LAW	7104	LEGAL METHODS	1.000	1.000	CR	0.000
LAW	7301	LEGAL WRITING I	3.000	3.000	B	9.000
LAW	7302	CIVIL PROCEDURE I	3.000	3.000	B	9.000
LAW	7401	TORTS	4.000	4.000	B-	10.800
LAW	7407	CONTRACTS	4.000	4.000	B	12.000
			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	2.914	Term Totals	16.000	16.000	14.000	40.800

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	2.914	Cum Totals	16.000	16.000	14.000	40.800

Academic Standing Effective 01/06/2022: Good Standing

Spr 2022						
<u>Course</u>		<u>Description</u>	<u>Attempted</u>	<u>Earned</u>	<u>Grade</u>	<u>Points</u>
LAW	7099	BEDFORD MENTOR PROGRAM	0.000	0.000	P	0.000
LAW	7114	LEGAL RESEARCH I	1.000	1.000	A	4.000
LAW	7117	LEGAL RESEARCH II	1.000	1.000	A-	3.700
LAW	7203	CIVIL PROCEDURE II	2.000	2.000	B-	5.400
LAW	7213	PROPERTY I	2.000	2.000	B-	5.400
LAW	7303	LEGAL WRITING II	3.000	3.000	B-	8.100
LAW	7310	CRIMINAL LAW	3.000	3.000	C+	6.900
LAW	7312	PRACTICE FOUNDATION I	3.000	3.000	B	9.000

Fall 2022						
<u>Course</u>		<u>Description</u>	<u>Attempted</u>	<u>Earned</u>	<u>Grade</u>	<u>Points</u>
LAW	7214	PROPERTY II	2.000	2.000	B-	5.400
LAW	7233	DEPOSITION LAW, STRAT AND TECH	2.000	2.000	C+	4.600
LAW	7313	NEGOTIATION AND CONFLICT RESOL	3.000	3.000	B-	8.100
LAW	7352	LEGAL WRITG III: APPELLATE DRAFT	3.000	3.000	B	9.000
LAW	7414	CONSTITUTIONAL LAW	4.000	4.000	C+	9.200

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	2.592	Term Totals	14.000	14.000	14.000	36.300

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	2.781	Cum Totals	45.000	45.000	43.000	119.600

Academic Standing Effective 01/03/2023: Good Standing

Spr 2023						
<u>Course</u>		<u>Description</u>	<u>Attempted</u>	<u>Earned</u>	<u>Grade</u>	<u>Points</u>
LAW	7127	LAW PRACTICE TECHNOLOGY	1.000	1.000	P	0.000
LAW	7315	UBE FAMILY LAW	3.000	3.000	C	6.000
LAW	7317	PROFESSIONAL RESPONSIBILITY	3.000	3.000	C+	6.900
LAW	7321	BUSINESS ASSOCIATIONS	3.000	3.000	A-	11.100
LAW	7323	FEDERAL CRIMINAL PROCEDURE	3.000	3.000	B-	8.100
LAW	7388	EXTERNSHIP SEMINAR	3.000	3.000	P	0.000

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	2.675	Term Totals	16.000	16.000	12.000	32.100

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	2.758	Cum Totals	61.000	61.000	55.000	151.700

Academic Standing Effective 06/02/2023: Good Standing



UNT Dallas COL Unofficial Transcript - review only

Name: Ulloa, Joseph
Student ID: 11035022

		Sum 2023				
Course		Description	Attempted	Earned	Grade	Points
LAW	7286	CONFLICTS OF LAW	2.000	0.000		0.000
			Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	2.000	0.000	0.000	0.000
			Attempted	Earned	GPA Units	Points
Cum GPA	2.758	Cum Totals	63.000	61.000	55.000	151.700
		Fall 2023				
Course		Description	Attempted	Earned	Grade	Points
LAW	7V30	LAW TOPICS	2.000	0.000		0.000
Course Topic:		Employment Law				
LAW	7120	THE TRIAL PROCESS	1.000	0.000		0.000
LAW	7318	EVIDENCE	3.000	0.000		0.000
LAW	7322	COMMERCIAL LAW	3.000	0.000		0.000
LAW	7325	UBE WILLS, TRUSTS AND ESTATES	3.000	0.000		0.000
LAW	7386	BAR EXAM SKILLS/STRATEGIES I	3.000	0.000		0.000
			Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	15.000	0.000	0.000	0.000
			Attempted	Earned	GPA Units	Points
Cum GPA	2.758	Cum Totals	78.000	61.000	55.000	151.700
Law Career Totals						
Cum GPA:	2.758	Cum Totals	78.000	61.000	55.000	151.700

End of UNT Dallas COL Unofficial Transcript - review only

